

**JUST TERRORISM?**  
**A MORAL ASSESSMENT OF THE RELATIONSHIP**  
**BETWEEN TERRORISM AND THE JUST WAR THEORY**

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## Abstract

The aim of the present thesis is to assess whether the just war theory can provide a moral justification for terrorism. In this sense, I have analyzed terrorist attacks from the perspective of six *jus ad bellum* principles - namely, legitimate authority, just cause, right intention, last resort, reasonable chance of success and proportionality – and the *jus in bello* requirement of noncombatant immunity. I put an end to my inquiry after proving that terrorists have no moral justification for failing to discriminate between individuals that are liable to be killed and those that are not. The reason is that I chose to write the paper in a way that did not allow the continuation of the analysis unless terrorism complied with the previous principles. The main finding of my thesis is that terrorism respects the *jus ad bellum* constraints, but violates the *jus in bello* noncombatant immunity. As such, I argue that terrorism can be considered a morally justified war, conducted in a morally impermissible manner.

## Motto

*[There are] men who assert that the contradiction between the striving and love for peace and the necessity of war is terrible, but that such is the fate of men. These for the most part sensitive, gifted men see and comprehend the whole terror and the whole madness and cruelty of war, but by some strange turn of mind do not see and do not look for any issue from this condition.*

(Leo Tolstoy)

# Contents

Introduction .....	1
Chapter 1 Terrorism and <i>Jus ad Bellum</i> .....	9
1.1. Legitimate Authority .....	10
1.2. Just Cause .....	12
1.3. Right Intention .....	16
1.4. Last Resort .....	18
1.5. Reasonable Chance of Success .....	21
1.6. Proportionality .....	27
1.7. Conclusion: Terrorism complies with <i>jus ad bellum</i> .....	38
Chapter 2 Terrorism and <i>Jus in Bello</i> .....	40
2.1. Noncombatant Immunity .....	41
2.1.1. Combatants and noncombatants according to the intentionality of the participation in war .....	42
2.1.2. Combatants and noncombatants according to the justness of the war's cause .....	46
2.1.3. The doctrine of complicity: terrorists' claim for civilian liability .....	48
2.1.4. How does the principle of noncombatant immunity condemn terrorism? .....	52
2.1.5. Exceptions from the principle of noncombatant immunity .....	54
2.2. Conclusion: Terrorism does not comply with <i>jus in bello</i> .....	56
Conclusion .....	58
Bibliography .....	62

## Introduction

Random killings, suicide bombings, fear, terror, panic, uncertainty. These constitute some of the most frequent words or combination of words to which terrorism is usually linked. Interestingly enough, all of them represent instances of moral wrongness. Could this lexical selection be biased and stem out of one's cultural, educational or political background? Or does it actually stand for what terrorism really is?

If being a *prima facie* evil is a sufficient condition for moral condemnation, then terrorism definitely satisfies it. Nonetheless, this paper does not rest on such an assumption, namely, that of drawing conclusions out of sheer appearances. Its purpose is rather to constitute a thorough ethical analysis of the phenomenon of terrorism. In this sense, it aims to investigate whether, in spite of all the evils that enter in its making, terrorism can be morally justifiable.

There are numerous ways in which one can approach the overall puzzle of my thesis, such as, consequentialist and deontological assessments, cosmopolitan and religious claims, considerations of distributive justice. However, from all the possible range of analytical factors, I chose to look at this issue from the perspective of the just war theory. Why? Firstly, because terrorism is a type of warfare – a nonconventional one, but still warfare. Secondly, due to the fact that the just war theory is an extremely intricate moral and legal construction which ultimately gathers elements from most of the aforementioned explanatory concepts.

Bearing this in mind, the question that lies at the foundation of the thesis is the following: *can the just war theory provide a moral justification for terrorism?* The main idea that I intend to defend in the following lines is that *terrorism is a morally permissible war which is being fought in a morally unjustifiable manner*. Thus, I argue that although terrorism complies with the requirements of *jus ad bellum*, it violates *jus in bello* by not respecting the

principle of noncombatant immunity. In this sense, I reject the justifications coming from the part of the doctrine of complicity, the Doctrine of Double Effect or the state of supreme emergency.

This paper contributes to the existing literature by providing an answer that can differentiate between the constitutive elements of terrorism and point exactly to those characteristics that make it morally wrong from the viewpoint of the just war theory. At the same time, it represents a clear and straightforward account, whose narrow implications are related to the idea that if terrorists changed their behavior in war, then they could be fully justified by this perspective. However, perhaps this is an impossible task, as this particular war tactic is the main defining element of terrorism which, in its absence, would cease to bear this name.

As far as limitations are concerned, I shall highlight the fact that I did not discuss the validity of the principles of the just war theory. I took them for granted and questioned only their applicability and relevance in the case of terrorist attacks. The length of the thesis combined with the focus of the paper imposed this type of restrictions. However, I did refer to the validity of some subsidiary concepts and doctrines that appeared to me as incoherent in several key points.

Through its scope, the thesis belongs to the field of political and moral theory. On the other hand, its methodology renders it an exclusively qualitative study. In the following pages, my main task shall be that of filtering terrorism through the two main stages depicted by the just war theory, namely, *jus ad bellum* and *jus in bello*, and see whether it complies with them or not. Consequently, I have structured the paper into two chapters, that correspond to these two accounts of war.

Before moving to the analysis itself, I shall proceed to the basic requirements for the proper understanding of my work, namely, the definition of the notion of “terrorism”,

followed by a general discussion on the just war theory and a description of my methodological tools.

## 1. Defining Terrorism

The notion of “terrorism” is of particular importance for my analysis and this stems out of two main reasons. Firstly, there is a huge debate on what terrorism actually represents, as there is no widely accepted definition of it. Secondly, it can be argued that there is a set of contextual interpretations of this phenomenon according to the nature of the *explanandum* that is under scrutiny. In what concerns the present paper, a clear delimitation of terrorism is the fundamental prerequisite for proceeding to the assessment of its moral justification.

While trying to distinguish its main features, I relied on the following four criteria:

1. agents
2. objects
3. goals
4. methods

After the 9/11 attacks, the belief endorsed by the US that terrorism is performed by non-state entities started to develop throughout the media and to overthrow any other type of perception. However, one should not disregard states’ employment of violence and terror. In this sense, history is extremely generous in providing examples of this sort, such as the Allies’ bombings in the Second World War.

The direct objects of terrorist attacks are constituted both by civilians, as well as non-human targets (such as buildings that have a certain symbolic meaning). They are used as means towards the achievement of a particular goal, namely, that of influencing through coercion the policies of the indirect objects of terrorism – governments, political factions, decision-making groups or individuals.

Nonetheless, whether direct or indirect, the targets or objects of terrorists can be classified into the three following categories:

- a) the people who are killed;
- b) the people who are terrorized by these killings;
- c) the government which is supposed to change its policies.

One definition that is consonant with the view of this paper on terrorism is that of Alison Jaggar:

Terrorism is the use of extreme threats or violence designed to intimidate or subjugate governments, groups or individuals. It is a tactic of coercion intended to promote further ends that in themselves may be good, bad or indifferent. Terrorism may be practiced by governments or international bodies or forces, sub-state groups or even individuals. Its threats or violence are aimed directly or immediately at the bodies or belongings of innocent civilians but these are typically terrorists' secondary targets; the primary targets of terrorists are the governments, groups or individuals they wish to intimidate.<sup>1</sup>

Even if the above definition may seem too broad, I tend to agree with Samuel Scheffler that the reliance on a narrow definition “would unwittingly import an uncritical pro-state bias”.<sup>2</sup> The cluster of narrow definitions of terrorism excludes any possibility for the existence of state terror, as terrorist acts are assigned only to non-state agents. Bearing this in mind, a question that deserves scholarly attention is: why the stress on non-state terrorism? Why is non-state terrorism illegitimate, whereas many variants of state terrorism are considered to be legitimate? Is there a difference between them in moral terms? It is not the scope of this paper to address these questions *in extenso*, but for the sake of conceptual clarity I shall make one last reference with respect to this issue. The differentiation regarding the moral justification of state and non-state terrorism, which is translated through a severe inconsistency of opinions, raises serious problems that can only be dealt with if one adopts a unitary point of view. Therefore, we could either perceive both state and non-state terrorism

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<sup>1</sup> Alison M. Jaggar, “What is Terrorism, Why is it Wrong, and Could it Ever be Morally Permissible?”, *Journal of Social Philosophy*, Vol. 36, No. 2 (2005): 209.

<sup>2</sup> Samuel Scheffler, “Is Terrorism Morally Distinctive?”, *The Journal of Political Philosophy*, Vol. 14, No. 1 (2006): 2.

as legitimate and justified or, conversely, disregard them as illegitimate and unjustified. This does not mean that there is no difference between them. Accepting the idea that both are wrong does, by no means, imply that they represent the same instances of wrongness; they may very well fit different sub-categories of the same main category.

Nonetheless, even if I acknowledge the existence and importance of state terrorism, where it is not otherwise stipulated, by “terrorism” I shall refer to non-state terrorism. This is not due to the fact that it has a more intense moral significance than state terrorism, but rather because of the emphasis which is currently laid upon it.

## 2. The Just War Theory

The just war theory has been constantly enriched and developed by important philosophers since medieval times. Basically, in the very beginning, this conception was built on the two requirements that St. Augustine considered a just war should possess. The first was the idea that a just war should be declared by a legitimate authority, and the second the fact that it should be fought for a just cause<sup>3</sup>. Later on, Thomas Aquinas drew attention to the importance of intentionality. He argued that we should distinguish between intentional killing and unintentional killing – which is simply foreseen but, as its name suggests, not intended.<sup>4</sup> At present, this idea constitutes the core of the Doctrine of Double Effect.

In the 16<sup>th</sup> and 18<sup>th</sup> centuries, Francisco de Vitoria and Emerich de Vattel approached the dichotomy between the objective and subjective senses of the moral status of war. In this respect, both of them argued that war cannot be just on both sides. This would trespass any logical norm and the truth – according to Vitoria - or, in Vattel’s opinion, the provisions of

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<sup>3</sup> Saint Augustine, *Political Writings*, ed. E.M. Atkins and R.J. Dodaro (Cambridge: Cambridge University Press, 2001): 205-227.

<sup>4</sup> Thomas Aquinas, *Political Writings*, ed. and trans. by R.W. Dyson (Cambridge: Cambridge University Press, 2002): 239-242.

natural law<sup>5</sup>. Hugo Grotius is another leading figure among just war theorists. In *De jure belli ac pacis*, he argued that a war was justifiable whenever it was right. And it was right if it had a just cause – such as self-defence, reparation of harm and punishment – and if it abided by certain principles, such as proportionality and the necessity of the use of force.<sup>6</sup>

More recently, in the 20<sup>th</sup> century, the just war theory was thoroughly analyzed by Michael Walzer in *Just and Unjust Wars* (1977). Walzer discussed important theoretical issues, as well as episodes from the two world wars and terrorist attacks. He stressed several just war principles, among them noncombatant immunity, and at the same time coined new concepts, such as that of “supreme emergency”.

This brief overview of the literature available on the just war theory is not exhaustive. There are many other intellectuals that brought their contribution to the development of this line of thinking, such as Suarez, von Pufendorf, Kant etc. There are two main reasons for which I decided to make this selection. The first is that, by going back as far as the 4<sup>th</sup> century, I wanted to show the deep roots that this theory has on our moral thinking and the importance attached to it throughout time. Secondly, I chose to include only those opinions that could provide a relevant background and also a helping hand for the argument that I intend to put forward.

Although the just war theory has both a legal and a moral dimension, the focus of my paper shall be on the latter. While analyzing terrorism, I shall refer to the general and widely acknowledged principles within this theoretical framework, which are going to be dealt with in two separate chapters: one dedicated to the case of *jus ad bellum* and the other to *jus in bello*.<sup>7</sup> I argue that these two different stages of warfare are logically independent, whereas their constitutive principles are interconnected. Hence, a war may be justifiable without being

<sup>5</sup>Robert L. Holmes, “Can War be Morally Justified? The Just War Theory”, in *Just War Theory*, ed. Jean Bethke Elshtain (Oxford: Blackwell, 1992): 201 & 207.

<sup>6</sup>Jon Miller, “Hugo Grotius”, *The Stanford Encyclopedia of Philosophy* (Summer 2009 Edition), Edward N. Zalta (ed.), URL = <<http://plato.stanford.edu/archives/sum2009/entries/grotius/>>.

<sup>7</sup>As terrorism is an ongoing phenomenon, the issue of *jus post bellum* shall not be mentioned.

properly conducted or, conversely, led in a rightful way without having a morally acceptable starting point<sup>8</sup>.

What I find very interesting about these principles is that while some discuss the issue of the justifiability of terrorism, others question the integration of this type of attacks into the category of warfare that can be analyzed by the just war theory. In this latter sense, the conceptual identity of terrorism is at stake and, unless one proves that terrorist organizations represent the kind of actors that a just war theory envisages, then the entire analysis is meaningless. Therefore, in order to see whether terrorists can be justified or not by this theory, I shall first demonstrate how they can be considered genuine actors on the international arena under the just war umbrella. As the principle of legitimate authority poses the greatest threat to this status, it will constitute the first point of discussion of the first chapter.

### 3. Methodology

One of the most significant assumptions on which this paper is built is that of *methodological individualism*. My unit of analysis is constituted by the individual and, following this framework, I shall analyze the two main types of agents referred to within the thesis: terrorists and their targets. In the former case, I shall look at individual terrorists and also at terrorist organizations, perceived either as aggregations of individual desires and beliefs, or as dominated by powerful leaders. As for the targets, I shall focus on the citizens that are being killed or harmed in the attacks and also on their governments, understood as a superstructure that encompasses a certain number of individual decision-makers.

Another tool that I intend to use is *methodological empathy*. The main reason for choosing it is represented by its opposition to reductionist explanations built on ideas such as abnormal psychological profiles of terrorists or genetic, biochemical and evolutionary

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<sup>8</sup> Jeff McMahan, *Killing in War* (New York: Oxford University Press, 2009): 4.

arguments linked to political violence and fanaticism.<sup>9</sup> Not only do I reject all these ideas, but I also rely on the premise that terrorists are characterized by instrumental rationality.

The literature that I use for the paper is mostly constituted by academic works belonging to the sphere of ethics and warfare. Nonetheless, I also cite several reports and news articles related to the occurrence of terrorist attacks.

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<sup>9</sup> Roger Griffin, “Shattering Crystals. The Role of ‘Dream Time’ in Extreme Right-Wing Political Violence”, *Terrorism and Political Violence*, Vol. 15, No. 1 (Spring 2003): 84 – 85.

## Chapter 1

### Terrorism and *Jus ad Bellum*

In *Rethinking the Just War Tradition*, Michael Brough, John Lango and Harry van der Linden<sup>10</sup> make a very good overview of the generally accepted and uncontested principles that are to govern *jus ad bellum*. These principles are to be further discussed at length and applied to the case of terrorism but, prior to this, a brief enunciation of them is due. Thus, the 6 *jus ad bellum* principles are:

- (i) Legitimate authority;
- (ii) Just cause;
- (iii) Right intention;
- (iv) Last resort;
- (v) Reasonable chance of success;
- (vi) Proportionality.

It is important to note that in order to characterize a war as just, this war should *simultaneously* comply with the above mentioned principles. The lexical order of the principles has its own logic. By considering legitimate authority the first principle of *jus ad bellum*, I support Uwe Steinhoff's argument from *On the Ethics of War and Terrorism*<sup>11</sup> that this requirement has a theoretical priority with respect to the others. This chapter is written in a domino style. Consequently, if I fail to prove that terrorism respects a certain principle, then it would follow that it is irrelevant whether it complies with the subsequent or not. As a general key of reading this work, it is worth noting that as I advance in the analysis of each principle, I assume that the previous have been satisfied and, therefore, take their validity for granted.

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<sup>10</sup> Michael Brough, John Lango, Harry van der Linden, ed., *Rethinking the Just War Tradition* (Albany: State University of New York Press, 2007): 244.

<sup>11</sup> Uwe Steinhoff, *On the Ethics of War and Terrorism* (Oxford: Oxford University Press, 2009).

## 1.1. Legitimate Authority

The question of whether terrorist organizations are competent authorities to engage into political wars is of the utmost importance. In trying to answer it, I shall first proceed to a discussion on the meaning of the concept of authority, followed by an inquiry into the possible sources of legitimacy that can be applied to the case of terrorism.

What is the definition of authority? According to Hobbes, a state has legitimate authority if it can impose laws and order on the individuals that live within its borders.<sup>12</sup> This position seems to suggest that the application of the concept of authority is restricted only to states. But could there be no possibility for extending it to non-state entities as well? McPherson identifies one such solution, by referring to the notion of *representative authority*, by which he means “adequate license for acting on behalf of a people through their approval.”<sup>13</sup> However, while applying it to terrorism, he considers that most of the time terrorism lacks representative authority.

I strongly disagree with his position and I intend to prove it wrong in the following lines. In so doing, I shall use the distinction between *de jure* and *de facto* authority, which can roughly equal the differentiation between legal and representative/ moral authority. As the focus of the thesis is constituted by the moral dimension of the just war theory, my aim shall be solely that of assessing the applicability of moral - and not legal – authority to terrorist organizations. The importance of moral authority resides in the fact that it can appeal to stronger arguments in favor of the representation of a population, rather than the legal type. Additionally, moral authority is always a *de facto* authority, whereas the same claim does not also apply to the legal one.

<sup>12</sup> Thomas Hobbes, *Leviathan*, ed. by C. B. Macpherson (Harmondsworth: Penguin, 1968).

<sup>13</sup> Lionel K. McPherson, “Is Terrorism Distinctively Wrong?”, *Ethics* 117 (April 2007): 539.

I believe that terrorist organizations can exert control over a population either through violence<sup>14</sup>, or ideology and perhaps the combination of both. In this sense, Max Weber's classification of authority into three types – legal, traditional and charismatic – according to its source of legitimization is extremely relevant<sup>15</sup>. Although terrorists cannot take law as the basis of their legitimacy, they can very well appeal to tradition or charisma, which are both instances of *de facto* authority. In case they base their control on their military capabilities, it should be traditional authority. When their ideas and principles bear the greatest weight, it is charismatic. If the state itself is weak, traditional and charismatic types of authority represent adequate alternatives to the legal one. There are examples of states that only have a *de jure* and not a *de facto* authority because they endorse unjust treatments and policies or simply because they are incapable of assuming an authoritative position. In this case, non-state entities may claim representative authority.

Thus, what proportion of the population should be sufficient to entrust these organizations with representative authority? Furthermore, how should this population be distributed? Should it live under the controlled territory or should it be dispersed throughout the whole country? If democratic tools – such as elections or referenda – are absent, how can one tell if the population is really represented or not? Hence, this issue bears both a procedural, as well as a substantive significance.

My opinion is that the empirical evidence cannot provide suitable answers to the questions that I have just raised but, fortunately, it can address the main concern. It is highly likely that terrorist organizations do manage to represent a certain population. The fact that there is a relatively high number of individuals willing to be recruited for all kinds of terrorist activities – including suicide bombings – constitutes significant evidence that many people identify themselves with the terrorists' ideals.

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<sup>14</sup> I believe that the proportion of these cases is quite low.

<sup>15</sup> For further details see Max Weber, *Political Writings*, ed. Peter Lassman and Ronald Speirs (Cambridge: Cambridge University Press, 1994).

There are several differences in the way in which states and non-state organization can exercise control. Whereas the former can rely on laws and coercive measures, the latter do not possess such tools. In this sense, organizations do not have a separate legislation, institutions to implement it or taxation to build their budget. Nonetheless, they can have a military force, private financing and revolutionary principles that could somehow compensate for their other losses.

I think that terrorists' main weapon in terms of gaining authority is that, in most cases, they manage to get connected to the desires and beliefs of their population. This means that they are constitutive parts of their population and that the creation of the common goal is a bottom-up rather than a top-down process. Therefore, I argue that what grants terrorist organizations moral authority is the fact that they control a specific territory *through* the representation of a sector of the population. As such, they are also recognized by international law as having belligerent status.<sup>16</sup>

To return to the original question of this section, I do believe that terrorist organizations can satisfy the principle of legitimate authority.

## 1.2. Just Cause

As I already noted, the order in which I presented the *jus ad bellum* principles is not at all random. If the legitimate authority bears a great theoretical significance, then I would argue that the principle of just cause has an enormous practical relevance. Irrespective of the topic that we approach – be it warfare or any other subject – the cause that lies at the basis of its foundation tells us a lot about the future course of events. Consequently, if terrorist attacks do not have a just cause as their underlying reason for aggressive behavior, then the analysis of the means through which they inflict the violence is irrelevant. As in the previous section,

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<sup>16</sup> Douglas P. Lackey, *The Ethics of War and Peace* (Englewood Cliffs, NJ: Prentice Hall, 1989): 29-31.

unless I manage to prove that terrorist organizations are fighting for a just cause, then I might as well end my argumentation about just war here.

What could constitute a just cause, according to the just warfare doctrine? There are several uncontested and generally acceptable answers to this question. Firstly, a war is just as long as it represents a legitimate reply to an unjust external attack. In other words, self-defence is considered to be a justifiable reason for waging a war.<sup>17</sup> Secondly and following the same reasoning, the defence of allies from unjust external attacks could largely stand for self-defence and, thus, integrate into the just cause category.<sup>18</sup> Thirdly, the preemptive war is considered to be justified, as it is meant to defend a state from the *imminent* threat of an unjust external aggression. Furthermore, the preventive war, characterized by the neutralization of *possible* dangers that are likely to happen in the future, is also perceived as a just cause.

An extremely important just cause that was seriously debated by the first just war thinkers – especially by Vitoria<sup>19</sup> – is the idea of punishment and retribution. In this sense, it is considered that wrongful acts that have not been corrected can constitute a legitimate basis for warfare and aggression. There are many questions that arise when we add the variable of correction to that of the wrongness of an act. For instance, should we take into account whether only wrongful acts that require a single performance can represent sufficient grounds for waging a war, wrongful acts that presuppose a reiterated harmful intervention, wrongful acts that were partially corrected by the aggressor himself or wrongful acts corrected by a third party?

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<sup>17</sup> Especially in this case, the *jus in bello* principle of proportionality is extremely important because it practically constrains the attacked state to limit its use of aggression to the amount that is absolutely necessary in order to counteract the aggressor.

<sup>18</sup> Only an intervention in the favor of allies can count as *self* – defence due to the military and moral ties that are formed between the belligerents fighting on the same side. Thus, an attack against one's ally can equate a threat to oneself. On the other hand, an attack on another country /territory can only represent an act of defence, and not of self-defence. In this sense, I believe that it can be better justified by other ethical systems than the just war theory, as it could be considered a matter of global justice rather than of military ethics.

<sup>19</sup> M. Brough, J. Lango, H. van der Linden.

My position is that any wrongful act, be it under the form of a sole or reiterated performance, that had a serious impact on the aggressed state and has not been corrected by or at the initiative of the aggressor(s) himself/themselves in a reasonable amount of time and with the best possible outcome that the resources and context allow, can constitute a legitimate reason to wage a war. The *best possible outcome* is to be assessed from the point of view of the party that suffered the injustices. On the other hand, by *reasonable amount of time* I understand the period in which the reparation of the harm can still produce some positive effects for the aggressed state and can, totally or partially, restore the *status quo*. Unlike the other conditions meant to determine the justness of a war's cause and which are forward-looking, the last one is backward-looking. However, I stand by the assertion that it can better fit the idea of correction rather than that of retribution, as the harm inflicted in the past continues to have consequences in the present.

From the entire range of possible just causes, I argue that terrorist attacks can be justified only if terrorists appeal to the idea that they have been or are still subjected to wrongful and uncorrected harms from the part of the states that they attack. This type of acts come under a variety of options. Firstly, we may have a look at the effects of imperialism and colonialism. I believe that these could rank the highest on a scale related to the wrongfulness of states' acts. Occupying a foreign territory by force, depriving it of its resources, imposing a foreign culture in the name of some shallow political or humanitarian ideals and transforming the original settlers into mere tolerates of the new regime is a horrible and outrageous political crime. This touches upon the right to political autonomy and it harms individuals by transforming them into second-class citizens. In this way, their self-respect and equality of status are threatened. An illustrative example of the effects of imperialism and colonialism is the Algerian War.

Secondly, terrorist attacks can be justified when they represent the replies to an external depletion of resources that finally results in poverty, internal corruption, non-democratic regimes and great political instability. I strongly believe that some Islamic fundamentalist organizations can fit very well into this category.

Furthermore, the justification of terrorism can occur whenever unjust situations are created through the diplomatic or military intervention of external states in regional conflicts, which wrongfully incline the balance towards a certain actor to the detriment of the other, so that they could maximize their benefits from the new *status quo*. In this respect, the problems between Israel and Palestine constitute a very good example.

Until now I have been referring only to wrongful acts exerted by another state on the terrorists' country of origin. However, there is the possibility that the homeland itself could inflict an unjust and wrongful treatment on certain ethnic minority groups. In these cases, terrorists fight for their survival as a distinct group and formally require secession and autonomy, which can be accommodated by the just cause principle. This could be the example of the Kurdistan Workers' Party (PPK) in Turkey or of the Tamil Tigers in Sri Lanka. However, I argue that the desire to change a political regime that is thought to be inappropriate but that does not inflict actual harm on the entire population or on certain minority groups cannot justify the resort to terrorism.

The four categories that I have just analyzed - namely, imperialism and colonialism, depletion of resources, external intervention in regional affairs, ethnic minority problems - represent ideal types. They cannot exist in reality in their purest form but, instead, they overlap. However, I argue that in each case of terrorist activity one of them is dominant and prevails over the other. And the examples that I used are illustrative for my point. However, I would argue that the first category, that of imperialism and colonialism, is the strongest, as all the other three typologies derive from it. The depletion of resources and external intervention

in regional affairs could very well be characterized as instances of imperialism, whereas ethnic minority problems arise especially due to the redrawing of borders and the continuous enlargement and fragmentation of world empires.

### **1.3. Right Intention**

The right intention principle is closely connected to that of a just cause. Basically, it abides by the rule that the intentions of a belligerent are right as long as they are solely circumscribed to the justness of its cause and, moreover, they do not exceed it. Therefore, in order for a belligerent to have a right intention, it is imperiously necessary that it should also fight for a just cause. However, it does not follow that if the belligerent is waging a war for a just cause, its intentions are automatically circumscribed to this cause. In other words, a just cause is a necessary but not a sufficient condition for the compliance with the requirements of a right intention. Actually, a just cause and a right intention potentiate each other. There cannot be a just cause without a right intention, nor a right intention without a just cause.

In order to explain better the relationship between these two principles, I shall further present the example of country A, which is waging a preemptive war against country B. As previously established, the defence from an imminent unjust external aggression can be considered a just cause for war. But what happens if during the conflict or even before it, country A decides that it would also want to take advantage of the war situation and benefit from a part of country B's resources? Are we still talking about a just cause? The answer is *yes*, as the main aim of the intervention is the defence against an imminent threat. However, one intuitively realizes that there is something wrong in this scenario. And this wrongness is constituted by the fact that the principle of right intention is no longer respected. Alongside the main reason for waging a war, a parallel and morally wrong reason has been developed. Nonetheless, this does not affect the justness of the cause but only the principle of right intention.

In this case, I argue that non-compliance with the principle of right intention can occur whenever the belligerent develops a *plurality of intentions*. When we are talking about a single intention, then this should necessarily overlap with the reason lying behind the just cause.<sup>20</sup> However, this idea is refuted in the literature. For instance, Judith Jarvis Thomson considers that there need not necessarily exist a congruence between a right intention and a just cause.<sup>21</sup> In this sense, she constructs the *Alfred dilemma*:

Here is Alfred, whose wife is dying, and whose death he wishes to hasten. He buys a certain stuff, thinking it a poison and intending to give it to his wife to hasten her death. Unbeknownst to him, that stuff is the only existing cure for what ails his wife. Is it permissible to Alfred to give it to her? Surely yes. We cannot plausibly think that the fact that if he gives it to her he will give it to her to kill her means that he may not give it to her. (How could *his* having a bad intention make it impermissible to him to do what *she* needs for life?)<sup>22</sup>

According to Jeff McMahan, this dilemma is centered around the conflict between permissibility based on bad intentions and impermissibility at all.<sup>23</sup> However, Thomson's main idea is that intentions are irrelevant for the moral permissibility of an action. Although I endorse this perspective, I believe that there are some exceptions when intentions do play a role in the justifiability of an action. In this sense, I support Scanlon's argument related to the "predictive significance of intent", which can be defined as that situation in which intention is relevant because it tells us something about the effects of the agent's action –or what is reasonable to expect those effects to be - on the world around her.<sup>24</sup> While applying this perspective to my topic, I would say that intentions matter in the moral assessment of terrorist attacks because they define the possible consequences of the decision to resort to war. Thus, it would be wrong to engage in warfare in order to benefit from other countries' resources, but

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<sup>20</sup> I say *just* cause and not simply cause because I am analyzing here only those wars that respect the just cause principle.

<sup>21</sup> She actually talks about intentions and permissibility, but I believe that the concepts of *just cause* and *permissibility* can be interchangeable in this context.

<sup>22</sup> Judith Jarvis Thomson, "Self-Defense," *Philosophy and Public Affairs* 20 (1991): 293.

<sup>23</sup> Jeff McMahan, "Intention, Permissibility, Terrorism and War", *Philosophical Perspectives* 23 (2009): 354.

<sup>24</sup> Thomas Scanlon, *Moral Dimensions: Permissibility, Meaning, Blame* (Belknap Press of Harvard University Press, 2008): 13.

not to defend yourself. As such, the moral permissibility of warfare depends on the effects that belligerents have in mind.

Taking all of these into account, I still believe that in order for terrorism to be justified, the compliance with the principle of right intention should be linked to the justness of the cause and only a plurality of intentions could lead to non-compliance. In my opinion, a problematic thing about terrorism is to establish its intentions. This cannot be truly done until the conflict comes to an end and one can actually assess the course of events with the declared intentions of the parties. Until then, we can only take for granted the fact that the causes for which the belligerents claim to fight are actually driven by the kind of intentions that they put forward. Assessing the right intentions is not only a matter of publicity. It also requires an analysis centered on their trustworthiness, feasibility and overall relationship with the war's cause. The most important practical implication of this is that we can never know if terrorism is justified while the war is ongoing.

However, there are some examples from the history of terrorism in which closed conflicts proved that the declared intentions of the parties were actually the genuine ones. In the case of the Algerian War, it is perfectly clear that the intention of the terrorists was to fight only for their country's independence and not for other benefits. Nonetheless, the ongoing conflicts are prone to serious question marks.

#### **1.4. Last Resort**

An act of aggression on another state complies with the principle of last resort if it corresponds to one of the following three self-sufficient cases:

- (i) Nonmilitary tools, such as diplomatic negotiations, legal threats or economic sanctions, have been unsuccessfully used;
- (ii) The urgency of the situation requires military intervention;

(iii) War can be morally preferable to other means in certain circumstances.<sup>25</sup>

I believe that these three requirements developed in the just war literature cannot be properly applied to the case of terrorism. I shall explain my reasons in the following lines. Firstly, points (i) and (iii) refer to situations where the parties of an international conflict can only be states. Clearly enough, terrorist organizations cannot produce economic and legal sanctions. Furthermore, their resort to diplomatic tools is highly problematic, as they are not in sufficiently strong bargaining positions. Although there are cases of negotiations between terrorist organizations and governments, the former do not have enough power or the ability to exercise pressure.

Point (iii) talks about the resort *to other means*. I strongly believe that terrorist organizations are especially characterized by a lack of a multitude of reasonable means. The fact that they are waging an asymmetric war has great repercussions on their range of options. Therefore, when choosing their strategy, they are mainly taking into account the resources that they have, which being characterized by scarcity, significantly reduce their available means.

Thus, we are left only with point (ii). I think that it can also be rejected, as the scarcity of resources overrides the urgency of the situation. Consequently, irrespective of how morally urgent the context is, this does not actually matter when one cannot choose among various possibilities.

In this case, I argue that what makes terrorism a last resort strategy is especially its *lack of resources* that is further transformed into an *asymmetric warfare*. What follows is that, from this perspective, terrorism can be justified. Nonetheless, there are several opinions in the literature that do not accept such an interpretation.

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<sup>25</sup> According to Uwe Steinhoff, “the so-called economic sanctions against Iraq cost the lives of more than 500,000 civilians, mostly women and children. In war, the desired loss would have been reached with significant fewer losses.” Excerpt from *On the Ethics of War and Terrorism* (OUP 2009): 28.

G. A. Cohen, for instance, talks about two types of “truths” related to this issue:

“The first truth is that your having left me with no reasonable alternative does not itself entail that I was forced to do whatever it was you left me with no reasonable alternative to, if only because I might nevertheless *not have done* that thing. [...]

The second truth is that having no reasonable alternative to doing a certain thing does not entail being *justified* in doing that thing, supposing that one *did* do it. Having no acceptable alternative to using terror may be a necessary condition of being justified in using terror, but it does not follow that it is a sufficient condition of being justified in using terror.”<sup>26</sup>

With his two “truths”, Cohen is referring to the fact that the scarcity of options, which is mainly due to those countries targeted by terrorists, cannot explain or justify terrorist attacks. Following the same line, Fotion argues that terrorists do not lack alternatives.<sup>27</sup> In this respect, he develops three criteria that consider the possibility of an act or campaign to be justified instrumentally:

- (1) the end sought is good enough to justify the means;
- (2) the end will actually be achieved by means of terrorism;
- (3) the end cannot be achieved in any other way that is morally and otherwise less costly.<sup>28</sup>

The points of view developed by Cohen and Fotion ultimately condemn terrorism. However, I believe that they are too rigid and dismiss too easily the arguments coming from the constraints imposed on terrorist organizations by their precarious situations. Taking everything into account, I maintain my position that the scarcity of resources and the asymmetric character of the wars in which they are engaged can provide a justification for terrorists from the perspective of the last resort principle.

<sup>26</sup> G. A. Cohen, “Casting the First Stone: Who Can, and Who Can’t Condemn the Terrorists?”, *Philosophy*, 58 (supp), pp. 131 - 132.

<sup>27</sup> His examples refer to taking on the opponent’s military establishment or going after government officials that are responsible for wrong-doing, and not targeting civilians, which is the trademark of terrorism.

<sup>28</sup> Nicholas Fotion, “The Burdens of Terrorism”, in *Values in Conflict*, ed. Burton M. Leiser (NY: Macmillan, 1981): 463-470.

## 1.5. Reasonable Chance of Success

The just war tradition argues that a war can be justified insofar as it is expected to produce the desired outcome. However, an intervention that failed to reach its aim but which was *reasonably* considered to be able to in its initial phase is morally permissible. This principle may trigger many questions that may give rise to a wide array of interpretations. For instance, what does the notion of *reasonable* stand for? Moreover, if the war was reasonably considered to be successful in its first stage, should this be sufficient in order for it to comply with the principle? Or should the intervention be periodically revised? In this latter sense, at what time intervals or under what conditions? Furthermore, what does *success* mean? What should be the minimum threshold for considering an intervention successful and what are the standards that set it?

By *reasonable* I understand the characteristic of any factor that exists in conformity with the reason. I define *reason* as the “faculty and function of grasping necessary connections.”<sup>29</sup> To return to the nature of the principle which is under discussion in this section, a reasonable chance of success is that chance that can be easily recognized as such by all reasonable persons.

A reasonable chance of success depends greatly on the context, the states of the world, in which the decision making process is being performed. In this sense, the amount of information that the actors possess plays an important role. No situation is characterized by a perfect availability of information. Actors should engage in taking decisions by making use of the amount of information that is at their disposal. Therefore, as perfect information cannot be available, decisions are taken either under uncertainty or under risk. The difference between the two resides in the way in which probabilities are being assigned to them. To be more specific, in the latter case each state of the world is being given a certain probability, whereas

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<sup>29</sup> Brand Blanshard, *Reason and Analysis* (La Salle, Illinois: Open Court, 1991): 25.

in the former this procedure cannot be followed. Decisions under uncertainty are characterized precisely by the fact that they cannot relate to the existence of probabilities regarding their states of the world.<sup>30</sup>

To which of these two types of decision making do the decisions taken by terrorist organizations pertain? I would say that these types of decisions could be categorized as decisions under risk because their states of the world can be prone to probabilistic evaluations. When analyzing whether to resort to terrorist attacks or not, terrorist organizations possess a minimum amount of information regarding their chances of success. They have, for instance, an assessment of their own resources, as well as data on their ultimate targets – states represented through their political decision making bodies – which can be very easily accessible. It is actually the governments themselves who make this information available in order to allow for the existence of a democratic regime characterized by transparency and openness towards its citizens. In this way, terrorist organizations become familiar with the country's political structure, infrastructure, economy, population figures, which can also have positive repercussions on the way in which they set the strategies directed towards their secondary targets, namely, the noncombatant civilians. However, there should be a balance between the cost of information and the level of utility obtained. Thus, as one goes beyond the optimum threshold of information gathering, there could be the case that a greater amount of information equals a decrease in the overall utility.

Apart from possessing knowledge with respect to the states and the population that are going to be attacked, terrorist organizations are also acquainted with the opinions and behavior of different types of actors on the international arena, such as, for instance, countries other than the targeted one, other non-state organizations and even political and legal bodies pertaining to the international community. There have been numerous examples throughout

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<sup>30</sup> Terry Connolly, Hal R. Arkes, Kenneth R. Hammond, *Judgment and Decision Making: An Interdisciplinary Reader* (Cambridge: Cambridge University Press, 2000).

time in which terrorist leaders assigned high probabilities to their chances for success because they were counting on external help – that could be materialized in money, weapons or international support – coming from a third party. To give a more concrete example, I could refer here to the case of Hamas and its alleged support received from Syria<sup>31</sup>, which has been extensively covered by the international media.

Nonetheless, when it comes to the availability of information, terrorism also draws benefits from its main constitutive element. Being built upon the randomness of the population target, time and space of the attacks, the terrorist tactic itself is meant to decrease the amount of information that the enemy and third parties possess and, in this way, to increase the chances of the operation's success.

While focusing on the expected consequences of their actions, terrorists ought to differentiate between short-term and long-term goals. At the same time, they should aim at controlling for biases related to decision making. In this sense, Kurt Lewin draws attention to “the lack of objective standards for appraising alternative courses of action, which heightens one's susceptibility to the influence of social pressures and other sources of erroneous judgments.”<sup>32</sup> Furthermore, social commitment to a decision can have a “freezing effect” and increase peer pressure as well. Biases in decision making are also caused by the reliance on faulty categories and stereotyping.<sup>33</sup>

At a first look, it would seem that terrorists are not safe from all these problems related to the assessment of their strategies. Stereotyping, for example, is a frequent characteristic of terrorist leaders' discourse. Additionally, peer pressure is another element that can be easily found within terrorist organizations. However, I argue that they do not constitute genuine problems in assessing their chances of success. Firstly, I believe that the incorporation of

<sup>31</sup> Matthew Levitt, *Hamas: Politics, Charity, and Terrorism in the Service of Jihad* (New Haven: Yale University Press, 2007).

<sup>32</sup> Irving L. Janis and Leon Mann, *Decision Making: A Psychological Analysis of Conflict, Choice, and Commitment* (New York: The Free Press, 1977): 15.

<sup>33</sup> I.L. Janis and L. Mann, pp. 15-16.

stereotypes in discourses is a matter of public declamation meant to gain supporters for the cause and organization. Distinctions between “us” and “they”, “freedom fighters” and “usurpers” etc, have been frequently used in wars in order to enhance the popularity of the cause. It is not something specific to terrorism. Basically, these stereotypes do not constitute a source of bias in the assessment of the chances of success. They mainly refer to characteristics that do not play a significant role in this process, but whose importance is reflected only in terms of the support received from the population. Secondly, peer pressure functions mostly at the level of individual decisions that do not carry a great weight with respect to the general strategy of the group. Most terrorist organizations are built on a pyramidal structure of power and authority.<sup>34</sup> As such, only the suicide bomber, for example, as a simple member of the organization, can be subjected to peer pressure and not the leaders themselves, who set the overall tactic. In most cases, the leaders are the ones exerting or supporting the pressure and not the other way around.

So far I have been arguing that terrorist organizations can estimate the probabilities assigned to their chances and, therefore, they can reasonably evaluate the risks to which their missions are subdued. Is this initial assessment of the risks sufficient? My answer is that it is in all cases necessary and only in some of them sufficient as well. In those situations in which the *status quo* does not suffer any modifications that could have repercussions on the terrorists’ mission, an initial evaluation of the chances is sufficient. However, it is reasonable to assume that some transformations are bound to happen. Thus, if the *status quo* changes during the conflict, the assessment is considered sufficient or not depending on the type of modifications that occur. If we are referring to a positive change, then the first evaluation is sufficient. As the course of events could only follow a beneficial track, this would mean that the initial chances of success could only be improved and, under no circumstances, lowered.

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<sup>34</sup> Troy Thomas, Stephen Kisser, and William Casebeer, *Warlords Rising: Confronting Violent Non-state Actors* (Lanham, MD: Lexington Books, 2005).

Nonetheless, when the *status quo* is subjected to changes that may trigger off negative consequences for the terrorists' attacks, the initial analysis of the chances of success is not sufficient anymore. Terrorist organization leaders need to reevaluate their strategies and update them to the new setting, so that they attain the best possible overall results. The process of assessing the chances should follow the same procedure as in the initial stage. However, to the first set of variables that terrorist leaders should take into account and which were previously enumerated<sup>35</sup>, one may also add the assessment of the mission's partial results. Undoubtedly, the recalculation of the reasonable chances of success depends – as the first evaluation - on the amount of information that the actors have at their disposal.

The last question that I will address in this section is related to the meaning of *success*. Usually, success can be defined as the attainment of the ideals put forward by the cause of the mission. Nonetheless, what happens when the outcome of the intervention is of a different nature than the one which was initially envisaged? To put it in other words, which should be the consequence of the fact that the expected success does not match the actual success? Let us consider the hypothetical example of a series of attacks meant to introduce a minority language as the medium of teaching in the schools frequented by the minority population, which obtains instead an important number of parliamentary seats for the minority representatives.

This outcome does not overlap with what the drafters of the terrorist tactic initially had in mind. Basically, their intervention did not respect the principle of a reasonable chance of success, as they did not reasonably assess the risks related to their desired outcome. In this case, what should be the status of the newly acquired right? I believe that the result that they obtain, if significant enough as opposed to the expected one – like in the present example - , can trump over the initial definition of success. I argue that this represents one of the instances

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<sup>35</sup> Information regarding the targeted states, their own resources, and the international community

in which the letter of the principle is not respected, whereas its spirit is. Therefore, the intervention can be justified from this point of view.

What does the empirical evidence have to say about the success reported by terrorist attacks? According to Robert A. Pape, “over the past two decades, suicide terrorism has been rising largely because terrorists have learned that it pays.”<sup>36</sup> In the period between 1980 and 2001 there were eleven terrorist campaigns, out of which six were considered to be closely correlated with significant policy changes by the target state in the direction wanted by the terrorists.<sup>37</sup>

Unfortunately, there is no clear-cut position on interpreting the results of terrorist attacks. In this sense, one relevant episode is constituted by Israel’s withdrawal from Gaza in 1994 and West Bank Towns in 1995. Even if both the Israeli state and the Palestinian Liberation Organization were signatory parties in the Oslo Accords on September 13, 1993, in which they settled for an agreement on Israel’s withdrawal from Gaza and West Bank Towns, the actual moment of this withdrawal occurred after several suicide attacks from the Palestinian side. Nonetheless, even if terrorist organizations claimed the success of the withdrawing operation and attributed it to their attacks, the Israeli state vehemently denied this by reminding that Israel had already agreed to the withdrawal by signing the Oslo Accords.<sup>38</sup>

When it comes to compliance with the principle of a reasonable chance of success, terrorist missions are extremely diverse and one cannot claim that there exists a general pattern. Some attacks have reasonable chances of success, whereas others do not. It is worth noting that in the latter category one can include the actions taken by Al Qaeda. According to its leaders, the aim of their attacks is to destroy the Western type of civilization. Taking into

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<sup>36</sup> Robert A. Pape, “The Strategic Logic of Suicide Terrorism”, *The American Political Science Review*, vol. 97, no.3 (Aug., 2003): 343.

<sup>37</sup> R. A. Pape, p. 351.

<sup>38</sup> R. A. Pape, pp. 351 – 355.

account the resources that they have at their disposal and those of their target, it would be quite difficult to infer that their chances of success are reasonably assessed. As I have previously argued, this example does not have a generalizing power.

As it can be easily considered to bring a bias to the benefit of big states and to the detriment of small ones, this principle is not included among the provisions of international law.<sup>39</sup> Nonetheless, even if its legal authority is absent, this principle demands compliance and ought to be respected by belligerents due to its moral force.

## 1.6. Proportionality

The principle of proportionality refers to the cost-benefit analysis that belligerents should perform at the beginning of the war and is founded upon the idea that the universal goods expected to result from the war and from securing the just cause should outweigh the expected universal evils, notably, casualties.<sup>40</sup> In order to distinguish it from the correspondent principle of proportionality in *jus in bello*, this principle is also referred to as the principle of macro-proportionality. This requirement does not imply that the justifiable terrorist acts should have only morally right results and no morally wrong ones. Conversely, what this idea suggests is that there should be an optimal balance between these two types of results that would, nonetheless, favor the positive outcomes.

How can one assess the possible universal goods and universal evils to which terrorists attacks are prone? Moreover, what should be the reasonable proportion between the two, and in what way does this report manage to legitimize or condemn terrorist missions? Does the qualitative aspect of the result, which can come in two antagonistic forms, namely good and evil, suffice in order to determine this proportion or should one also look at its quantity? These questions are going to be addressed in the following lines.

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<sup>39</sup> Brian Orend, "War", *The Stanford Encyclopedia of Philosophy (Fall 2008 Edition)*, Edward N. Zalta (ed.), URL = <http://plato.stanford.edu/archives/fall2008/entries/war/>.

<sup>40</sup> B. Orend

The morally acceptable consequences of terrorist missions are those related to the attainment of their war's just cause.<sup>41</sup> In most cases, they are striving for the liberation and independence of their territory, be it a state or a province within a state. Although significant through their frequent dispersal, these two goals do not cover all the possible causes for which terrorists prepare and conduct their attacks. Consequently, with the risk of losing much of the precision of the analysis but for the sake of simplicity, I shall gather all possible universal goods that can be obtained by terrorists under the conceptual umbrella of *political rights* and further refer to them as such.

What exactly grants political rights the status of universal goods? Political rights are commonly associated with the public sphere of the individual's life and with her identity as a citizen. Through the ideals and values that it puts forward, the public realm bears a great significance for the quality of life of those affected by it. If individuals do not receive the proper consideration and the necessary set of rights which are commonly associated with the citizen status, they lose their dignity and self-respect, being transformed in this way into second-class citizens. Furthermore, as the public sphere is intricately connected with the private one, the existence or non-existence of certain rights also touches upon the intimate aspects of an individual's life.

If so far I have analyzed only a single side of the cost-benefit relationship specific to terrorist attacks, namely, the universal goods, I shall continue the present discussion by referring to its counterpart as well – the universal evils. What type of results obtained by terrorists could be considered to be morally wrong? In order to provide an answer to this question, I strongly believe that another one should be raised. To whom exactly do these wrongs apply? To the victims only, to the terrorists only or to both of these two categories?

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<sup>41</sup> I shall not summarize the previous discussion on the just cause principle. For more information, see chapter 1, section 1.2.

Similarly to the analysis of the universal goods, I shall synthesize the entire range of moral wrongs that could result out of terrorist missions in two concepts: *the violation of the right to life* and *the propagation of fear through the random use of terror*. If we report them to the impact that they have on individuals' lives, each of these two wrongs is of considerable moral importance. However, I argue that out of the two, the violation of the right to life is of an even more delicate nature, as it represents the foundation of all other rights.

What exactly makes life a cherished ideal and killing an immoral deed? According to Epicurus, life and death are two separate stages that mutually exclude each other and that differ through their applicability. Briefly put, he considers that "death is nothing to us, since so long as we exist, death is not with us; but when death comes, then we do not exist. It does not concern either the living or the dead, since for the former is not, and the latter are no more."<sup>42</sup>

On the other hand, Thomas Nagel argues that death and life are connected. More specifically, death deprives us of the experiences and opportunities we could have if we had lived longer. Even though the dead person is unable to feel it, the deprivation is real. The person who is deprived and loses when she dies is the very person who lived, died and lives no longer.<sup>43</sup> A legitimate question that Govier raises starts from the premise that not all lives are full of joy and further inquires whether Nagel's ideas can have a general applicability. Her argument is that even though some people may choose to die, the point about the morality of killing is that such a choice should be one's own. According to her, "killing is wrong because to kill another person, to cut off a life in progress without the consent of the person whose life it is, imposes on him or her a choice that no human being is entitled to make for another."<sup>44</sup>

<sup>42</sup> Epicurus, "Letter to Menoeceus", in George K. Strodach (ed.), *The Philosophy of Epicurus* (Evanston: Northwestern University Press, 1963).

<sup>43</sup> Thomas Nagel in Trudy Govier, *A Delicate Balance. What Philosophy Can Tell Us About Terrorism* (Colorado & Oxford: Westview Press, 2002): 139.

<sup>44</sup> T. Govier, p. 140.

Up until now I have discussed the significance of life as the nucleus of the right to life. But what could be said about the importance of the right to life itself? I strongly believe that as life represents the necessary basis for the existence of everything else, the right to life is a necessary precondition for any other type of civic and political liberties and freedoms that individuals could enjoy. Its violation would have a domino effect, leading to the infringement of all other rights. Nonetheless, this particular type of moral wrongness is not something specific to terrorism. The violation of the right to life occurs in all types of warfare and also outside the war theater. Crimes, for instance, constitute a very good example in this sense.

However, there is a particular element intrinsic to terrorist attacks that differentiates the way in which they violate the right to life from other types of such infringements; basically, we can refer here to a procedural rather than a substantive distinction. My opinion is that this distinctiveness stems out of the fact that terrorism manages to combine elements that characterize killing in both normal crimes, as well as in warfare, without being identified with any of them.

Deaths caused by wars or crimes are usually met with sorrow and regret. On the other hand, terrorist attacks normally produce shock and terror.<sup>45</sup> What is so appalling about the way in which terrorists take the lives of their victims? Firstly and most importantly, the randomness that characterizes their choice of targets plays a significant role. Therefore, irrespective of age, gender, socio-economic status and, most notably, culpability as to the cause for which the attacks are being conducted, any possible person can constitute the potential victim of a terrorist mission. This feature differentiates terrorism from other types of warfare, where the identity of the combatants and of the noncombatants is clearly established and respected and where the boundaries of the war theater have precise delineations.

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<sup>45</sup> Institute for Homeland Security Solutions, *Innovative Survey Methodology for the Study of Attitudes Toward Terrorism and Counterterrorism Strategies: An Exploration of Past Surveys* (November 2009).

Secondly, the extreme violence inflicted on civilians that usually characterizes the terrorist tactic is rarely found in other circumstances. In this sense, terrorists rely mainly on using bombs in their attacks, which are recognized both by military and medical personnel as having a great destructive power for human beings, as well as for buildings and other inanimate objects. The victims of bomb attacks rarely survive and their deaths occur through intense violence that can also reach high levels of pain and suffering.

The most violent and painful type of death that can result from the use of bombs is that produced by overpressure. In this particular case, internal organs are lethally or permanently damaged by a sudden increase in the ambient pressure.<sup>46</sup> Moreover, wounds or death may occur through the projection of fragments and material into the body, the propulsion of the body into other objects, as well as a range of additional factors such as burns, dust inhalation and the collapse of buildings.<sup>47</sup> These short-term consequences are backed up by the long term impact that explosive attacks normally have. The latter range from amputations, blindness, loss of hearing to brain trauma, post-traumatic stress disorder and possible discrimination and social and economic exclusions that persons with disabilities may face.<sup>48</sup> This particular characteristic of terrorism represents the element that sets it apart from normal crimes.

Another specific and important trait of the terrorists' violation of the right to life is constituted by the great publicity and media coverage that their attacks usually receive. In fact, the public attention that surrounds their missions represents a constitutive point of their overall tactic, which is ultimately aimed at instilling fear within large segments of population.

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<sup>46</sup> R. M. Coupland, "Amputation for antipersonnel mine injuries of the leg: preservation of the tibial stump using a medical gastrocnemius myoplasty" in *Annals of the Royal College of Surgeons of England* (1989): 405-408.

<sup>47</sup> Richard Moyes, "Explosive Violence, The Problem of Explosive Weapons" (Landmine Action, 2009) – report, p. 27

<sup>48</sup> R. Moyes, p. 29

As it can easily be noticed, the two types of wrongs that may result out of terrorist missions are entangled and overlap, as there are no strict boundaries between them.<sup>49</sup> Despite this very close relation between the violation of the right to life and the propagation of fear, I believe that they constitute, nonetheless, two distinct elements that due to their nature and manipulation ought to be treated separately. Therefore, I shall address the issue of the fear instilled by terrorist attacks in the following lines.

Fear could be defined as an emotion triggered off by the incidence of a particular threat or stimulus. It follows from this that fear itself cannot be a self-sustaining psychological process. This element constitutes the trait that sets it apart from a closely related emotional state, namely, anxiety. Furthermore, in most cases, the fear and the stimulus exist simultaneously, whereas the object of the emotion is constituted by a situation placed somewhere in the future.<sup>50</sup>

The definition of terrorism on which this paper is built stipulates that “terrorism is the use of extreme threats or violence designed to intimidate or subjugate governments, groups or individuals.”<sup>51</sup> Applying the constitutive elements of fear to the particular case of terrorism, I would say that terrorist attacks represent the threat, the stimulus, that produces fear with respect to the abrupt and violent termination of life.

I argue that there are three main reasons for which the fear that results out of terrorist missions cannot be morally permissible:

- (i) It is intrinsically wrong;
- (ii) It destabilizes a society by interrupting the normalcy of life;
- (iii) It endangers the principles of democracy.

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<sup>49</sup> I would like to further clarify this point in order to avoid any possible misunderstandings that could appear in the next pages. There are no strict boundaries between the violation of the right to life and the propagation of fear if one looks at the way in which terrorists make use of them: causing the latter through the former. However, where their nature and applicability are concerned, they can be analyzed separately.

<sup>50</sup> A. Öhman, “Fear and Anxiety: Evolutionary, Cognitive and Clinical Perspectives” in M. Lewis and J.M. Haviland-Jones (eds.), *Handbook of Emotions* (New York: The Guilford Press, 2000): 573-593.

<sup>51</sup> See the Introduction for the complete definition of terrorism.

First and foremost, causing fear to other human beings is a wrong *per se*. This stems out of the fact that this particular emotion is characterized by a high intensity which consumes many psychological resources and which ultimately leads to a low quality of life.

Following the same line of thinking, the second argument condemning the fear produced by terrorist attacks rests on the idea that through the mental processes that it creates, fear contributes to the disruption of the normalcy of life. Michael Walzer, a proponent of this point of view, considers that: “This, then, is the peculiar evil of terrorism – not only the killing of innocent people but also the intrusion of fear into everyday life, the violation of private purposes, the insecurity of public spaces, the endless coerciveness of precaution.”<sup>52</sup> Similarly, Samuel Scheffler argues that terrorism is a *prima facie* evil and that it is morally distinctive “insofar as it seeks to exploit the nexus of violence and fear in such a way as to degrade or destabilize an existing social order.”<sup>53</sup> Hobbes characterizes fear as the inevitable fate of pre-social human beings. Its infectiousness and corrosive power that are triggered mainly by the randomness and indiscriminateness of victim selection undermine any aspect of normalcy.<sup>54</sup>

The third argument regarding fear produced by terrorism as morally impermissible is the direct consequence of the second point and the indirect effect of the first one. According to Robert Goodin, fear is one of the distinctive wrongs produced by terrorist attacks, as it endangers the principles of democracy by allowing politicians to take advantage of the terror instilled within the population of noncombatant civilians that bear the right to vote for their own political/ electoral purposes.<sup>55</sup> Thomas Pogge also considers that politicians can gain a lot of “attention, authority and respect from a frightened public, as well as acquiescence when

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<sup>52</sup> Michael Walzer, *Arguing about War* (New Haven, CT: Yale University Press, 2004): 51.

<sup>53</sup> S. Scheffler, p. 16.

<sup>54</sup> S. Scheffler, pp. 4-9.

<sup>55</sup> Robert E. Goodin, *What's Wrong with Terrorism?* (Malden: Polity Press, 2007): 39.

they withhold information, increase surveillance, disrespect civil liberties and curb political opposition.”<sup>56</sup>

While one can clearly assess the number of casualties after the occurrence of a terrorist attack, it is not an easy task to indicate the magnitude of fear within a certain population. Nonetheless, there is empirical evidence that can be brought in this case as well. The most convincing one refers to the proportion between the death toll that results out of terrorist missions and the budget spent on counter-terrorist measures. For instance, in 2001 – the year of the September 11 attacks – only 0.13% of all deaths was caused by terrorism in the US. In comparison, a much higher number of people died from cardiovascular diseases, cancer or road accidents. In this context, between 2001 and 2006, the US government spent \$438 billion on the war on terror, amounting to \$146 million per US fatality. However, since 2001, the Global Fund to Fight AIDS, Tuberculosis, and Malaria, receiving funds from all willing governments, raised around \$6.9 billion and spent approximately \$4.4 billion. In this case, the expenditure rounds up to only \$120 per fatality.<sup>57</sup>

These figures show the concern and attention that terrorist attacks are usually granted. They are ultimately rooted in the fear spread throughout the population and finally result into this type of answer from the politicians’ side. As terrorism is extremely visible in the media, counter-terrorist measures should also receive a corresponding amount of attention. This improves politicians’ image and their electoral chances, as they are depicted as active fighters for the well-being of their fellow citizens.

As I have previously argued, there is a fine line between the two types of wrongs that terrorist attacks are likely to cause. However, the delineation becomes more visible when one looks at their nature and applicability. Until now, I have analyzed the distinctive natures of the

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<sup>56</sup> Thomas Pogge, “Making War on Terrorists – Reflections on Harming the Innocent”, *The Journal of Political Philosophy*, Vol. 16, No. 1 (2008): 2.

<sup>57</sup> T. Pogge, pp. 1-2.

violation of the right to life and of the propagation of fear. I shall continue the present discussion by looking at the agents to whom they usually apply.

The right to life is one of the fundamental human rights that have been strongly protected with lines of argumentation stemming from complementary sides: natural law, ethics, international declarations and agreements which were ultimately turned into domestic pieces of legislation. Being a fundamental human right, the right to life has a general applicability. Moreover, it also has an *intuitu personae* character, meaning that it is personal and non-transferable to other individuals. As such, when terrorists resort to the killing of noncombatant civilians, they are violating only the rights of those agents that are lethally wounded by the attacks. One might argue that the suicide bombers' right to life is not respected either and that they are treated as means by terrorist organizations. Nonetheless, I believe that these are two different situations, which are set apart by the voluntary character of the bombers' decision to commit suicide.

On the other hand, fear is produced to those persons that survive or receive information with respect to the occurrence of terrorist acts. The degree of fear which is instilled in this population differs according to the proximity – both spatial and genetic – of the agents to the attack itself or its victims, as well as according to their psychological profiles. By *degree of fear* I understand the intensity and the duration of this emotional state. Terrorists usually create a dangerous circle between the threatening of the right to life and fear, as the former constitutes the cause and the object of the latter. The existence of a general state of fear is impossible; this would rather bear the name of anxiety. In the case of terrorist missions, we can identify an emotion related to the safety of one's life.

I should note that although the victims that are ultimately killed in the attacks experience a very intense form of fear, they cannot fit the category that I have just described. The reason for this is that killing and death in general presuppose an amount of fear.

Therefore, as the violation of the right to life already encompasses this element, it would be superfluous to consider the dead civilians as part of the frightened population.

The relevance of the distinction regarding these two different wrongs lies, first and foremost, in a better understanding of the terrorist tactic and, secondly, in a more accurate moral diagnosis of its outcomes. Basically, my point was to show that the harms that terrorism causes to the civilian population are morally condemnable, whether taken separately or combined. The separation of these two elements is possible only logically, in the way in which I have previously shown. However, in reality, they are indivisible and their synergy constitutes the core of the terrorist tactic. I consider this strategy an instance of resource maximization due to warfare asymmetry and ultimately a proof of the rationality of the terrorist tactic itself.

If terrorist attacks produced either only good or only bad consequences, determining their compliance with the principle of macro-proportionality would be an easy task. Unfortunately, things become blurry as the proportion of the two types of outcomes differs from case to case. Nonetheless, it is worth stressing that whereas the positive effects exist solely at a probabilistic stage, the negative ones are necessarily bound to occur. These positive consequences correspond roughly to the idea of *success* that was analyzed in the previous section. At the same time, the principle of macro-proportionality is logically dependent on and posterior to the principle of a reasonable chance of success.

It is impossible to evaluate from this perspective those terrorist missions that are still ongoing due to the big uncertainty in determining their consequences until the very end. Thus, it follows that the incidence of this principle is limited only to closed conflicts. At the same time, the analysis shall vary from case to case. Bearing these general considerations in mind, what could one say about the compliance of terrorism at large with the principle of macro-proportionality? More exactly, which of the two major sets of rights that I have previously

referred to should be given priority? Political rights represented mainly by the right to an autonomous and independent state or the right to life<sup>58</sup>?

In this sense, my first hypothesis is that the right to life is necessary for the existence of the right to a state in all situations. The second hypothesis rests on the idea that the right to a particular state is necessary for the existence of a right to life only in some situations, namely, when the state authorities threaten individuals' existence as human beings and as citizens. Consequently, I argue that if terrorists manage to prove that they find themselves in the second situation, then their acts are justified. I restate that this analysis should be performed contextually. My conclusion applies to terrorism in general and to no case in particular.

Another question that I raised at the beginning of this section was whether the proportion of the universal goods and evils that may result out of terrorism matters. Some could argue, for instance, that at least one of the two types of rights that I have previously discussed, namely, the right to life, could not be fractioned. Life itself is valuable, whether we are talking of one life versus an infinity of lives. I, on the other hand, tend to perceive this issue from a consequentialist point of view and look at the overall well-being that could be produced by the attacks. Therefore, if terrorism represented a means through which the benefits that some people derived exceeded the costs imposed on others, then it could be morally permissible. Analyzing this relationship quantitatively, this would imply that the number of individuals for whom the right to a state would be necessary for the existence of a right to life should greatly exceed the number of casualties. I am referring here to the direct beneficiaries of the right and the direct victims of the attacks.

This discussion shows that from the point of view of the micro-proportionality principle, terrorist attacks can be justified.

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<sup>58</sup> I chose the violation of the right to life without the propagation of fear as a representative of the universal evils produced by terrorism due to two main reasons. Firstly, I already talked about its great overall importance. Secondly, its violation can be more easily quantified.

### 1.7. Conclusion: Terrorism complies with *jus ad bellum*

*Jus ad bellum* constitutes the first component of the just war theory and its aim is that of investigating whether the war participants have the right to wage a war. In other words, its principles look at the permissibility of the war. From the analysis that I have performed in this chapter, it follows that terrorism does comply with the requirements of *jus ad bellum*. How? I shall summarize my findings in the next lines:

- (1) The principle of legitimate authority – Terrorist organizations can have legitimate authority by morally controlling a specific territory through the representation of a sector of the population.
- (2) The principle of a just cause – Terrorist organizations can fight for a just cause in the following four situations: to combat the effects of imperialism and colonialism; to reply to external depletions of resources; to fight states that have unjustly interfered – militarily or diplomatically – in other regions' conflicts; to protect minorities from unjust and wrongful treatments imposed by their homeland.
- (3) The principle of right intention – Terrorist organizations can fight with a right intention if the cause for which they are fighting is just and they do not develop other wrongful intentions alongside this cause.
- (4) The principle of last resort - The scarcity of resources and the asymmetric character of the wars in which terrorists are engaged can provide a justification for terrorism.
- (5) The principle of a reasonable chance of success – Terrorism is justified if terrorists can reasonably assess their chances before engaging in war, as well as during the war, when circumstances demand it. Moreover, their achievements should be compatible with these assessments.
- (6) The principle of proportionality – Terrorism can be justified if terrorists prove that the political rights for which they are fighting are necessary for their existence as

human beings or citizens. At the same time, they should also comply with the condition that their benefits exceed the costs imposed to the victims.

## Chapter 2

### Terrorism and *Jus in Bello*

*Jus in bello* is composed of a set of regulations that are meant to observe the conduct of the belligerents during the war. In other words, this account looks at the permissibility of the military behavior of the parts involved in the conflict. There are three uncontested and generally accepted constraints of *jus in bello*, namely: noncombatant immunity, proportionality and military necessity.

As in the previous chapter, the order of these principles is mandatory and it reflects a logical relationship and sequence between them. Also, I continue in the same domino style of writing, meaning that if I fail to prove the validity of one of the principles, I shall end my analysis at that point. Any further consideration would have no practical relevance, as it would be already proven that terrorism cannot comply with *jus in bello* at large. And this is, ultimately, the aim of the chapter – to see if terrorist attacks can be justified from the perspective of *jus in bello* in general, rather than of every single principle that comes into its making, taken separately.

I argue that terrorism violates the requirement of noncombatant immunity and, as such, cannot be considered a morally permissible war conduct. As a consequence, I shall engage in a discussion only with respect to this principle and shall not proceed to those of proportionality and military necessity.

The section on noncombatant immunity shall be divided into several sub-sections. The first shall analyze the distinction between combatants and noncombatants, followed by an inquiry into the way in which soldiers and civilians can fit the aforementioned categories. Furthermore, I shall apply all these concepts to the case of terrorism and prove that the doctrine of complicity cannot justify it. Lastly, I shall look at two exceptions from the principle of noncombatant immunity that are promoted by the just war theory, namely, the

Doctrine of Double Effect and the state of supreme emergency, and assess the way in which they can relate to terrorism.

## 2.1. Noncombatant Immunity

The principle of noncombatant immunity can also be found in the literature under the name of the “principle of discrimination” and it largely refers to the idea that there should be a distinction between the participants in war (such as soldiers, for instance) and the noncombatants - mainly, the civilian population. As McMahan notices, the principle encompasses both a permission, as well as a prohibition: the permission to attack enemy combatants and the prohibition to kill noncombatant civilians.<sup>59</sup> Its roots can be traced back to various theoretical structures, such as the principle of punishment, self-defence<sup>60</sup> or the survival of the collective.<sup>61</sup> Although the underlying argument of this *jus in bello* component seems clear and straightforward, at a closer look, one may find some questions that could be raised and that contribute to the emergence of several controversies on this topic.

The first issue that I intend to discuss is linked to the conceptual distinction between the combatant and the noncombatant. Classical just war theory identifies the soldiers and the military in general with the combatants. On the other hand, civilians are perceived as noncombatants, as they are not directly involved in the conflict and do not represent a great danger for their opponents. This constitutes the moral perspective on the issue and it is mainly centered around the idea of threat in war. Conversely, the legal point of view grants combatant status to those persons who satisfy a specific set of criteria, such as “distinguishing themselves visibly at a distance by some conventional sign, carrying their arms openly,

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<sup>59</sup> J. McMahan, *Killing in War*, p. 204.

<sup>60</sup> J. McMahan

<sup>61</sup> M. Walzer

subordinating themselves to a hierarchy of authority and command, and obeying the laws of war.”<sup>62</sup>

As the moral component of the just war theory constitutes the focus of this paper rather than the legal one, the following questions shall particularly address this side. Thus, is the integration of soldiers in the category of combatants and of civilians in that of noncombatants still accurate? Or, better said, has it ever been strong and clear enough as to provide a meaningful set of guidelines with respect to the proper conduct in war? Opinions are divided. While there are some that argue for the validity of the distinction in this precise connotation, many voices<sup>63</sup> that are influential and closer to our times tend to be more skeptical. Their main arguments have been synthesized in the two following differentiations:

- (i) The intentionality of the participation in war: innocence v. non-innocence v. moral culpability;
- (ii) The justness of the cause of the war, which is applicable only to civilians.<sup>64</sup>

Let us turn to the examination of the first of them.

### **2.1.1. Combatants and noncombatants according to the intentionality of the participation in war**

As a prerequisite for this discussion, I shall start with an inquiry concerning the relevance of intent for the involvement in war and, thus, for the liability to be killed. Similarly to Thomson, I argue that, except for a limited number of cases, intentions do not define actions, nor their moral permissibility. However, they do circumscribe the agents’

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<sup>62</sup> J. McMahan, *Killing in War*, p. 12.

<sup>63</sup> Such as Richard Arneson, Jeff McMahan or Uwe Steinhoff, just to mention a few.

<sup>64</sup> My aim here is to see how the usual understanding of the combatants and noncombatants can be challenged. To put it differently, how soldiers can become noncombatants and civilians combatants. In the case of soldiers, the only way in which they can be considered noncombatants, from a moral point of view, is through the criterion of intentionality. Thus, irrespective of the justness of the war’s cause, soldiers are still combatants, as they represent threats for their enemies. However, the liability to be killed of the combatants engaged in a just war is debatable in the literature. I will not put a great emphasis on this issue here because the focus of my thesis is on terrorism, which, through its nature, targets civilians.

involvement in actions and, in this way, their blame or lack of.<sup>65</sup> That is the reason why the three categories produced by looking at the criterion of intentionality refer solely to the assessment of the agents' participation, namely, innocence, non-innocence, and moral culpability.

McMahan, Arneson and Anscombe define the innocent in different ways but, nonetheless, all of them share a common assumption: an individual can be considered innocent if she does not represent a threat in war. Arneson takes the analysis further and distinguishes between non-innocence and culpability. According to him, a non-innocent person is one that "can be engaged in an objectively unjust proceeding while being blamelessly ignorant of its unjust character."<sup>66</sup> By using "*blamelessly ignorant*", he rules out negligence and recklessness. Conversely, the morally culpable constitutes a threat both objectively, as well as subjectively. In this sense, she is performing an action for the cause of the war and, at the same time, she is also aware of the finality of her acts.

On the other hand, Arneson considers that what characterizes the combatant status is material assistance in war, as well as the *acknowledgement* of this assistance. Basically, for combatants, participation in war takes the form of intended action. One can deduce from here that noncombatants do not intend to assume an active position in the conflict. In the situation in which they end up contributing to the war in one way or another, this involvement is produced accidentally, out of negligence or recklessness, and is not the result of their intentions.

Taking all of this into account, it would follow that, according to the criterion of intentionality, soldiers can be considered noncombatants if they do not participate in war with the intention of representing a threat for their enemies. Does this type of soldier exist in wars? From the legal point of view, the answer would be no; in this case, all soldiers would

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<sup>65</sup> J. Jarvis Thomson, pp. 293-295.

<sup>66</sup> Richard J. Arneson, "Just Warfare Theory and Noncombatant Immunity", *Cornell International Law Journal*, volume 39, issue 3 (2006): 104.

represent threats. However, I believe that the moral perspective allows for the existence of such a possibility. In this sense, there are soldiers who do not believe in the cause of the war, do not want to attack their enemies and do not take any action in this direction either, but who are forced by the circumstances of their professional duties to remain in the war theater. There are numerous examples in real life, as well as in fiction books, of soldiers that avoid confronting their enemies or that are never actively involved in any field operation.

In the last paragraph I challenged the idea that soldiers could be only combatants and now I intend to continue in the same line with the association that is usually performed between civilians and noncombatants. What are the situations in which this connection can be overcome? According to the criterion that is currently being examined, civilians could be granted combatant status, provided that their actions reflect intentions meant to produce effects on the war theater. There is, on the one hand, that category of civilians that resonate with the war's ideology, believe in it and try to promote it in any available channel. Similarly, Jeff McMahan talks about civilians that are instigators of wars, aiders and abettors.<sup>67</sup>

One controversial typology is that of the civilians who lead their lives in normal conditions, outside of the war reality, but whose activity contributes directly to the war effort. Michael Walzer also approaches this topic and looks at the way in which the demarcating line between soldiers and civilians gets blurred, as intentions come into play. More specifically, he differentiates between

those who make what soldiers need to fight and those who make what they need to live, like all the rest of us. When it is military necessary, workers in a tank factory can be attacked and killed, but not workers in a food processing plant. The former are assimilated to the class of soldiers – partially assimilated, I should say, because these are not armed men, ready to fight, and so they can be attacked only in their factory (not in their homes), when they are actually engaged in activities threatening and harmful to their enemies.<sup>68</sup>

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<sup>67</sup> J. McMahan, *Killing in War*, p. 208.

<sup>68</sup> Michael Walzer, *Just and Unjust Wars* (NY: Basic Books, 1977): 146.

In a similar note, Thomas Nagel considers that:

the threat presented by an army and its members does not consist merely in the fact that they are men, but in the fact that they are armed and are using their arms in pursuit of certain objectives. Contributions to their arms and logistics are contributions to this threat; contributions to their mere existence as men are not.<sup>69</sup>

Basically, Walzer and Nagel share the same idea that one should differentiate between soldiers' military and human sides and that any help to the latter represents no material contribution to the war. Although I find this distinction useful, I am not convinced by this argument. I strongly believe that even if the military and the human parts of a soldier can be separated, they ultimately bear a great amount of influence on each other. If a soldier is not properly fed, clothed or medically assisted, then the quality of his participation in war will be severely reduced. This point of view is also shared by Jeffrie G. Murphy, who discusses the necessary and contingent connections to the war effort:

Combatants are those anywhere within the chain of command or responsibility – from bottom to top... The links of the chain (like the links between motives and actions) are held together logically and not merely casually, i. e. all held together, in this case, under the notion of who it is that is engaged in an attempt to destroy you. The farmer qua farmer is, like the general, performing actions which are casually necessary for your destruction; but, unlike the general, he is not necessarily engaged in an attempt to destroy you... The farmer's role bears a contingent connection to the war effort whereas the general's role bears a necessary connection to the war effort. The farmer is aiding the soldier qua human being whereas the general is aiding the soldier qua soldier or fighting man.<sup>70</sup>

But what could be said about the liability to be killed of these two types of civilians? In this regard, I agree with Cécile Fabre. Even if both the civilians that produce food and those that produce guns participate in the war, this should not mean that they are liable to be killed. "A civilian is liable to be attacked if he is causally and morally responsible for wrongful enemy deaths."<sup>71</sup>

<sup>69</sup> Thomas Nagel, "War and Massacre", *Philosophy and Public Affairs*, Vol. 1 (1972): 140.

<sup>70</sup> Jeffrie G. Murphy, "The Killing of the Innocent", *The Monist* 57 (1973): 532.

<sup>71</sup> Cécile Fabre, "Guns, Food, and Liability to Attack in War", *Ethics* 120 (October 2009): 37.

### **2.1.2. Combatants and noncombatants according to the justness of the war's cause**

Civilians may bear responsibility for a war and be transformed into combatants not only through commission, but also through omission. In the latter sense, Jeff McMahan talks about the duty to oppose unjust wars. This duty can come under two forms. We can have, on the one hand, an unjust war if the country which declares the war does not rely on a just cause. In this sense, one would have to oppose the declaration of war itself.

The second possibility refers to the situation when a state is being attacked by another state/organization that has a just cause for going to war. As both belligerents cannot have a just cause, but only one of them, it would follow that the attacked country is fighting an unjust war. In this case, should one add to the duty to oppose the unjust war the duty to oppose the action that constitutes the cause of the war? My answer is positive, as failing to oppose the action that triggers the conflict may perpetuate the existing injustices and, thus, provide sufficient grounds for the future outburst of other wars.

The major problem that one can encounter with respect to the criterion of the justness of the war's cause is that of the quantity and quality of the information received by the population on this topic. Due to possible information asymmetries between civilians and their government, it is difficult to tell whether the former have the necessary amount of information in order to form a correct judgment regarding the justness of the war's cause. In this way, it could be possible for people to believe that they are fighting for a just cause, when, in reality, they are not. Consequently, they would fail to comply with the duty to oppose this type of war. Can they be morally blamed for this?

One way in which this dilemma can be answered is by looking at how contemporary democracies function. The shift from subject to citizen brought by the French Revolution, together with the process of democratization, may constitute enough evidence with respect to the availability of information for the general public.

However, Coates rejects this idea and argues that citizens are incapable of reaching an informed opinion regarding the justness of wars due to two main reasons. Firstly, the type of information required is, by its nature, classified and restricted to a political and military elite. Secondly, citizens do not have the necessary expertise regarding the meaning of the just war theory principles in order to pass such judgments. Thus, allowing the citizen body to exercise its power in this area would ultimately be imprudent and might endanger the security of the state by making sensitive material public.<sup>72</sup>

Although accurate in some respects, I believe that the argument put forward by Coates suffers from a major inconsistency. Basically, he expects citizens to perform an analysis on the compliance of a certain military attack with all the principles of the just war theory. As desirable as this may sound, it is unrealistic to consider such type of observations from the entire voting population. The reasons for this are precisely those named by Coates himself. Conversely, the milder version of this point of view defended by McMahan – namely, that in which citizens should only consider the justness of the war's cause<sup>73</sup> – is better suited for establishing civilian liability in war. First of all, this would require a kind of information that would not jeopardize the country's security and that it would be easily accessed through the media. No technical details regarding military or diplomatic strategies would be needed, but only relevant facts for the reasons to wage war. Secondly, the principle of a just cause is probably the strongest *jus ad bellum* component. As I have argued in the previous chapter, the subsequent principles should, by all means, have a just cause at their foundation. Thirdly, passing such a judgment in the given circumstances should not require great knowledge in the field and should not go beyond the common sense.

Therefore, if we accept McMahan's argument, citizens can possess both the information and the expertise in forming an opinion on one of the crucial points of a war's

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<sup>72</sup> A. J. Coates, *The Ethics of War* (Manchester and New York: Manchester University Press, 1997): 141.

<sup>73</sup> J. McMahan, *Killing in War*, p. 6.

justness, namely, its cause. As a consequence of these theoretical advantages, I shall align to this perspective. Having agreed on this point, what is the consequence of the civilians' failure to comply with the duty of opposing unjust wars? The answer is synthesized in one word: complicity.

Is this complicity morally wrong or can it be justified by the concept of political obligation? On the one hand, according to the idea of political obligation, citizens have the duty to obey the policies of their government, even if they disagree with them. On the other, one could claim the existence of a case for civil disobedience. But is there such a case? Basically, this situation describes the moral conflict that exists between the duties that we have towards our co-nationals and those that we have towards foreigners. Influenced by authors such as Scheffler<sup>74</sup> or Pogge<sup>75</sup>, I believe that the arguments against national partiality are stronger than those in favor of it. Consequently, in the case of unjust treatment of foreigners, civil disobedience should be permissible. As such, the failure to oppose the unjust war can be considered morally wrong.

The doctrine of complicity is the main argument to which terrorists resort in order to justify their killing of civilians. Therefore, I shall examine it in greater detail in the following section dedicated to the case of terrorism.

### **2.1.3. The doctrine of complicity: terrorists' claim for civilian liability**

The doctrine of complicity is much more sophisticated than implying solely an act of omission; it also presupposes a commission. In this sense, citizens are not guilty only of not opposing the war, but also of sustaining it outside of the war theater. How is the latter possible? Firstly, the citizen body is the one that elects the political decision-makers that choose to engage into an unjust war. Secondly, they further support them by paying taxes. It is

<sup>74</sup> For further details, see Samuel Scheffler, *Boundaries and Allegiances: Problems of Justice and Responsibility in Liberal Thought* (Oxford: Oxford University Press, 2001).

<sup>75</sup> For further details, see Thomas Pogge, *World Poverty and Human Rights: Cosmopolitan Responsibilities and Reforms* (Cambridge: Polity, 2008).

worth stressing the importance of this line of argumentation for this paper, as many terrorist leaders seek ethical refuge in it. For instance, in Osama bin Laden's words:

You may... dispute that [the various accusations and grievances just stated do] not justify aggression against civilians, for crimes they did not commit and offenses in which they did not partake: This argument contradicts your continuous repetition that America is the land of freedom... Therefore, the American people are the ones who choose their government by way of their own free will; a choice which stems from their agreements to their policies. Thus the American people have chosen, consented to, and affirmed their support for their Israeli oppression of the Palestinians, the occupation and usurpation of their land, and its continuous killing, torture, punishment and expulsion of Palestinians. The American people have the ability and the choice to refuse the policies of the Government and even to change it if they want. The American people are the ones who pay the taxes which fund the planes that bomb us in Afghanistan, the tanks that strike and destroy our homes in Palestine, the armies which occupy our lands in the Arabian Gulf, and the fleets which ensure the blockade of Iraq. These tax dollars are given to Israel for it to continue to attack us and penetrate our lands. So the American people are the ones who fund the attacks against us, and they are the ones who oversee the expenditure of these monies in the way they wish, through their elected candidates. Also the American army is part of the American people... The American people are the ones who employ both their men and women in the American forces which attack us. This is why the American people cannot be innocent of all the crimes committed by the Americans and Jews against us.<sup>76</sup>

I argue that the doctrine of complicity can be valid only with respect to the omission that it presupposes, namely, the failure to oppose unjust wars. The arguments related to the elections of politicians or to tax payments are unconvincing in several key points. I shall first approach the issue of elections. One salient feature of democracies is constituted by the institution of representation. Citizens transmit their preferences to politicians through voting, making them accountable for the way in which these preferences are being transformed into policies. Basically, this model depicts a principal-agent relationship. Democratic theory recognizes two types of mandates that can be entrusted to the politicians/agents by the citizens/principals: imperative and representative mandates.

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<sup>76</sup> The Guardian, *Full Text: Bin Laden's 'Letter to America'* ( November 24, 2002) on <http://www.guardian.co.uk/world/2002/nov/24/theobserver> Last Accessed: May 10, 2011.

The imperative mandate is characterized by the fact that “politicians can only enact policies in accordance with concretely transmitted preferences by their electors.”<sup>77</sup> In other words, politicians are strictly bound in the decisions that they take by their voters’ interests. On the other hand, the representative mandate makes politicians less accountable to the electorate than the imperative one.<sup>78</sup> Basically, the former have a greater freedom in filtering the preferences entrusted to them through voting and, thus, they can be more flexible and malleable when it comes to policy-making. Raw preferences do not equal policies. While contemporary democracies use the institution of the representative mandate, the imperative one has been applied in very few cases, most of them in the distant past.

Taking all of this into account, could one still argue that citizens are responsible for their political representatives’ decision of engaging in an unjust war? I strongly believe that *not*. As the representative mandate is widely spread, it would be unjust to blame the voters for the policies drafted by their politicians. However, even if they are not responsible for the decision itself, they still have the duty to oppose the war, which has been already discussed in the previous pages.

One argument brought against the idea of the citizens’ lack of responsibility for the decisions taken by politicians is that of Michael Green, who considers that

In a perfect democracy each and every person would be...fully responsible, because if the method of consent has been in operation, each has agreed to the decision reached by that method, or, if not that, to be bound by whatever decision was reached by that method...<sup>79</sup>

Basically, Green believes that citizens can be morally culpable for the decision to resort to war and not only for failing to oppose it. His main assumption is the validity of consent theories and, in this way, he traces the chain of responsibility for unjust wars to the civilian population. But what if consent theories are not adequate? Are civilians still morally

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<sup>77</sup> Jan-Erik Lane, *Comparative Politics: The Principal-Agent Perspective* (Routledge: Routledge Research in Comparative Politics, 2007): 7.

<sup>78</sup> J. Lane

<sup>79</sup> Michael Green, “War, Innocence, and Theories of Sovereignty”, *Social Theory and Practice* 18 (1992): 51.

responsible? Most certainly not. On a parallel note, Uwe Steinhoff rejects Green's argument by stating that "the characteristic of *liberal* democracy is precisely that the individual is *not* required to accept whatever is collectively decided."<sup>80</sup> As Green's position is built on some dubious premises, I do not think that it can represent a real threat to the argument that I previously defended.

Let us turn now to the issue of paying taxes as an equivalent for support in war. According to Black's Law Dictionary, a tax is "not a voluntary payment or donation, but an enforced contribution, exacted pursuant to legislative authority".<sup>81</sup> Citizens do not have the option of choosing between paying or not paying taxes. This aspect is a necessary component of the concept of citizenship that has legal repercussions whenever it is not respected.

I argue that not paying taxes as a form of protest for unjust wars would be irrational. By "irrational" I primarily understand the quality of acting against the tenets of reason and not against the precepts of self-interest. In this way, I endorse Kant's view on the relationship between morality and rationality<sup>82</sup>. In which way is the non-compliance with the duty to pay taxes irrational? Firstly, the money that the government collects from the citizens does not constitute only the defence budget. Rather than this, it is allotted to many other spheres that have a more direct influence on the quality of the citizens' lives, such as health or education. If individuals refused to pay their taxes, then they would experience a serious set of negative repercussions, including the aforementioned legal sanctions.

Secondly, as paying taxes to a certain government is intricately linked to being a citizen of a specific country, considering the option of not complying with the former duty might as well evolve into giving up the state's citizenship. Why does the doctrine of complicity stop at this point and render itself incoherent by assuming that individuals would go as far as exposing themselves to prison sanctions for fiscal evasion, but not to a decline of citizenship?

<sup>80</sup> U. Steinhoff, p. 68.

<sup>81</sup> Black's Law Dictionary, 5<sup>th</sup> ed. (West Publishing, 1979): 1307.

<sup>82</sup> Kurt Baier, "The Conceptual Link Between Morality and Rationality", *Nous*, Vol. 16, No.1 (Mar., 1982): 79.

It remains an open question. However, what is sufficiently clear is the fact that not paying taxes would be irrational from the citizens' part because: it would expose them to a wide array of negative consequences (i); it could be easily replaced with other less demanding options, such as opposing the war through protests and the like (ii).<sup>83</sup>

#### **2.1.4. How does the principle of noncombatant immunity condemn terrorism?**

The discussion on the doctrine of complicity constitutes the last point that I intended to address while trying to define what a combatant and a noncombatant are. As it has been shown in the previous pages, the opinions on this distinction are divided across several demarcation lines –intentionality and justness of the cause. A question that can be properly raised is the following: how do the ideal types of the combatant and noncombatant look like? The arguments presented in the previous pages suggest that the standard portrait of the latter should be that of an innocent civilian who has no intention to participate in a war which is being fought for a just cause. Conversely, the combatant is the morally culpable soldier who obviously has the intention to participate in a war that is being fought for an unjust cause. Unfortunately, these prototypes get mixed in wars to the point that it becomes extremely difficult to retrieve them in this exact form.

Although the opinions that I have reviewed until now present many different perspectives, there is, nonetheless, a point of convergence among them. This is constituted by the thought that *there are some individuals who should not be killed in war in virtue of their noncombatant status*. What a noncombatant is varies, but the fact that they should not be attacked and assimilated to the combatants is a generally accepted idea. And I shall treat it as such. What are the implications of this argument for the case of terrorism? The main statement of this section is that *terrorism does not comply with the principle of noncombatant*

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<sup>83</sup> I do not mention the decline of citizenship as a possible less demanding solution, because I believe that it does not fit this category due to the obvious difficulties that it encompasses, such as, changing one's domicile or being exposed to a new cultural environment. The reason for discussing it was solely that of emphasizing the incoherence of the doctrine of complicity.

*immunity due to the fact that terrorists do not discriminate between individuals that are liable to be killed and those that are not.* I shall defend this point of view in the following lines.

Terrorists consider that all their victims are morally culpable and, hence, in a position to be attacked. This can be deduced from the randomness of their targets. In this sense, they plan attacks in crowded places, such as airports, subways and the like. Although there are divergent opinions on what a combatant is, there is a general consensus that *children* cannot constitute legitimate targets in war under any circumstance. By setting no limits to the war theater, terrorists disregard this basic moral and military imperative. The randomness strategy previously described is a trademark of terrorism. While this may be true, it would be unfair if I did not recall those relatively few instances when terrorists bomb places that are renowned for hosting adults only and, in this way, discriminate between them and children. In 2002, for instance, 202 people died in what is considered to be the deadliest terrorist act in the history of Indonesia, after bombs were detonated inside and outside a nightclub.<sup>84</sup> There were no children involved in this attack, but could one really say that this approach solves our moral dilemma and that all the adult individuals in a nightclub can be liable to be killed?

I say *no* and rely on the argument concerning the treatment of *foreigners* in war. Thus, when engaged in a military conflict with another country/ countries, one should limit one's attack to the direct opponents and avoid involving third parties. I take this as a self-explanatory principle, that is rooted in the ideas of war accountability and unnecessary harm. Yet, terrorists fail to comply with it. Unlike in the case of children, they cannot control whether there are any foreigners in the places that they choose for running the attacks. Moreover, many terrorist acts happen in airports, which are, by definition, places of international transit that gather individuals of diverse nationalities and citizenships.

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<sup>84</sup> BBC News, *Bali Death Toll set at 202* (February 19, 2003) on <http://news.bbc.co.uk/2/hi/asia-pacific/2778923.stm> Last Accessed: May 16, 2011.

### 2.1.5. Exceptions from the principle of noncombatant immunity

Up until now, this discussion clearly condemns terrorism from the viewpoint of the principle of noncombatant immunity. In spite of this, could there be no possibility for justifying this violation? To put it in other words, even if terrorists disregard this core just war theory prohibition and kill noncombatants, do they have a superior justification that somehow escapes the logic of the principle of discrimination? If this should be the case, then there are only two possible ways to come to terms with this paradoxical situation, namely, by resorting to the Doctrine of Double Effect (DDE) or to the concept of supreme emergency.

Let us look firstly at the DDE. According to Michael Walzer, the DDE constitutes a “way of reconciling the absolute prohibition against attacking noncombatants with the legitimate conduct of military activity.”<sup>85</sup> As its name correctly suggests, the double effect refers to that situation when an action is likely to produce two types of consequences. One of them is a moral good, whereas the other is a foreseeable but unintended evil. In this context, the DDE can only be morally defensible if

The intention of the actor is good, that is, he aims narrowly at the acceptable effect; the evil effect is not one of his ends, nor is it a means to his ends, and, aware of the evil involved, he seeks to minimize it, accepting costs to himself.<sup>86</sup>

How does the DDE relate to the case of terrorism? Can it justify civilian deaths in exchange for political goals? *No*. First of all, the killing of noncombatants is not an unintended but foreseeable effect. Conversely, it constitutes the core of the terrorist tactic and it is clearly an intended action, a means to its ends. Furthermore, terrorists do not seek to minimize the evil. In this sense, Walzer speaks about the ‘positive commitment to save civilian lives’<sup>87</sup> that the DDE encompasses. Could one identify such a commitment among terrorist bombers? No, quite the contrary, as they are mainly targeting crowded places and rush hours.

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<sup>85</sup> M. Walzer, *Just and Unjust Wars*, p. 153.

<sup>86</sup> M. Walzer, *Just and Unjust Wars*, p. 154.

<sup>87</sup> M. Walzer, *Just and Unjust Wars*, p. 154.

Additionally, while the DDE recommends to be aware of the produced evil in order to minimize it, there are cases when terrorists relate to the negative effects of their actions only to mask them. The way in which they do it is through an appeal to morality in bad faith, which can take various forms: from the doctrine of complicity to biased interpretations of religious norms that transform the suicide into a martyrdom or the killing of innocents into a holy war.

Hence, the DDE cannot justify terrorism. In the previous lines, I took its validity for granted. But what if this is not the case? Ultimately, this doctrine constitutes an account that draws the borders between the permissibility and impermissibility of killing, while resting solely on one type of justification that is prone to serious debates: that coming from the part of intentions. I have already discussed in the thesis the arguments of Thomson and Scanlon with respect to the irrelevance of intention to the moral permissibility of an action. I shall be consistent in my argumentation and, consequently, follow the same path. Thus, in short, I believe that the DDE cannot provide a proper moral justification for terrorism because: the principle itself is not valid, as it assumes that intentions are sufficient in assessing the permissibility of an action (i); even if it were valid, terrorists would violate it by clearly intending to kill noncombatants and use this as a means to their ends (ii).

Let us turn now to the concept of supreme emergency. According to Walzer, the cases that fall in the category of a supreme emergency are motivated by a fear and danger beyond the ordinary and are characterized by the imminence and nature of danger.<sup>88</sup> The state of supreme emergency is conditional upon the DDE, which basically acts as one of its additional principles. In this sense, both of them look at the justifiability of the killing of innocents and the intentions behind the actions; in the case of the supreme emergency, the action is motivated by an intention to avoid the imminent and great danger, irrespective if innocent

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<sup>88</sup> M. Walzer, *Just and Unjust Wars*, pp. 251-252.

lives are at cost. Since I already refuted the DDE based on the irrelevance of intention for the permissibility of an action, the same treatment should be naturally applied in the case of the supreme emergency as well.

There are also other arguments in the literature that are brought against the validity of this concept. Coady, for instance, discusses two strong reasons for rejecting it. Firstly, he considers that Walzer supports a pro-state bias, by assuming that the supreme emergency can only be applicable in the case of states.<sup>89</sup> According to Walzer, “every act of terrorism is a wrongful act”<sup>90</sup>, whereas soldiers and statesmen can “override the rights of innocent people for their own political community.”<sup>91</sup> Coady’s second critique refers to the situation when the state of supreme emergency is broadened and applicable to terrorism as well. In this case, the concept becomes too permissive by increasing “the oddity of the idea that it can be right to do what is morally wrong”.<sup>92</sup>

In brief, the state of supreme emergency cannot justify terrorism either.

## 2.2. Conclusion: Terrorism does not comply with *jus in bello*

As terrorism does not respect the requirements of the principle of noncombatant immunity, I shall stop my analysis of *jus in bello* here. In brief, the main idea of this chapter is that terrorists do not have a proper conduct in war. My findings are summarized in the next lines:

- (1) The principle of noncombatant immunity – Although there is no consensus on what a combatant is, the idea that there are some individuals who should not be killed in war in virtue of their noncombatant status is generally accepted.

Terrorism does not comply with the principle of noncombatant immunity because

<sup>89</sup> C. A. J. Coady, “Terrorism, Morality, and Supreme Emergency”, *Ethics* 114 (July 2004): 783.

<sup>90</sup> M. Walzer, “Terrorism: A Critique of Excuses”, in *The Ethical Life: Fundamental Readings in Ethical and Moral Problems*, ed. Russ Shafer-Landau (US: Oxford University Press, 2009): 238.

<sup>91</sup> M. Walzer, *Just and Unjust Wars*, p. 254.

<sup>92</sup> C. A. J. Coady, p. 787.

terrorists do not discriminate between individuals that are liable to be killed and those that are not.

- (2) Exceptions from the principle of noncombatant immunity – the Doctrine of Double Effect and the state of supreme emergency have problems with their validity due to the fact that they rely on the assumption that intentions are relevant for the moral permissibility of an action; as such, they cannot provide a proper justification for terrorism.

## Conclusion

The aim of the present thesis was to investigate whether the just war theory could provide a moral justification for terrorism. The general conclusion I arrived at is that *although terrorism can be a morally justified war, it is not conducted in a morally permissible way*. In developing this argument, I have structured the paper into two chapters written in a domino style, meaning that, first of all, the principles that I analyzed were connected and arranged in a logical sequence. Secondly, the non-compliance of terrorism with one of the just war theory requirements would stop my inquiry at that point, as it would already show whether terrorism can be justified by the accounts of justice before or during the war. Due to the latter point, in the second chapter I analyzed only the principle of noncombatant immunity; as terrorist attacks were proven to violate it, I did not proceed any further.

My findings from the first chapter show that terrorism is consonant with all the requirements of *jus ad bellum*: legitimate authority, just cause, right intention, last resort, reasonable chance of success and proportionality. To be more specific, terrorist organizations can have legitimate authority by morally controlling a specific territory through the representation of a sector of the population. Furthermore, they can fight for a just cause, provided that they integrate it in one of the following four situations: combat against the effects of imperialism and colonialism; reply to external depletions of resources; fight against states that have unjustly interfered – through military or diplomatic means – in other regions' conflicts; protection of minorities from unjust and wrongful treatments imposed by their homeland. If the cause for which they are fighting is just and they do not develop other wrongful intentions along its side, terrorists can also satisfy the principle of right intention.

The last resort requirement is compatible with the scarcity of resources and the asymmetric character of the wars in which terrorists are engaged. The principle of reasonable

chance of success is respected if terrorists can reasonably assess their chances before engaging in war, as well as during the war, when circumstances demand it. Moreover, their achievements should be consonant with these assessments. Lastly, terrorism complies with the principle of proportionality if terrorists prove that the political rights for which they are fighting are necessary for their existence as human beings or citizens. At the same time, they should also abide by the condition that their benefits exceed the costs imposed on the victims.

My findings from the second chapter are related only to the principle of noncombatant immunity. The conclusion that I arrived at is that although there is no consensus on what a combatant is, the idea that there are some individuals who should not be killed in war in virtue of their noncombatant status is generally accepted. Terrorism does not comply with the principle of noncombatant immunity because terrorists do not discriminate between individuals that are liable to be killed and those that are not. I further discussed the Doctrine of Double Effect and the state of supreme emergency as exceptions from this principle, but neither of them was able to justify terrorism due to problems related to their internal validity.

Basically, the just war theory justifies resort to terrorism, but condemns the way in which the attacks are conducted. The implications of this argument are related, first and foremost, to the behavior of terrorists during war. Thus, provided that they change their main strategy - namely, that of killing noncombatants in exchange for political goals - terrorists can be fully justified by this moral account. However, I am quite skeptical towards this outcome because I strongly believe that one of the main characteristics of terrorism is precisely the resort to this particular war tactic. Hence, even when terrorists claim to target buildings that carry a certain symbolic meaning and not the civilian population, they cannot perfectly control for casualties among the latter. On the other hand, if they attack only combatant soldiers, they cease to be terrorists and become instead guerilla fighters. From these

considerations it would follow that terrorism is intrinsically and fundamentally wrong from the just war theory perspective, and that there is no possibility for moral improvement.

A second implication of my main conclusion refers to the idea that terrorism is a morally permissible war, which is being fought for a just cause. What follows from here is that as the terrorist strategy itself is unjustifiable, there is the need for an institutional setting at the international level that could efficiently solve the injustices that lay at the foundation of the terrorists' war causes. If the just war theory considers that the terrorist strategy does not constitute a proper behavior in war, then it should provide a reasonable alternative for it.

I believe that the present study can be improved by further researching the two requirements of *jus in bello*, which the length and writing style of the thesis did not allow me to analyze, namely, the principles of proportionality and military necessity. At the same time, as some principles could be applied only to closed conflicts, I think that there is the need for a theoretical framework that could assess the justifiability of ongoing wars as well. Furthermore, as the just war theory has both a moral and a legal dimension, an inquiry into the compatibility between terrorism and the latter would be an interesting sequence to this work. I am quite aware of the fact that I did not provide a clear profile of the combatant and noncombatant, rather I chose to adopt a simplistic approach that relied on the strength of the distinction itself in order to defend my own argument. However, given the importance of these two concepts and the divergence of opinions that exists within the literature with respect to them, I am supportive towards a clear analysis that could cast some light on the issue.

Lastly, I consider that another interesting way of looking at the relationship between terrorism and the just war theory would be one in which terrorist attacks would be categorized according to specific criteria (such as, for instance, their cause or underlying ideology – Islamic fundamentalists, Marxist-Leninists, separatists etc) and, afterwards, have each of these categories filtered by the just war theory. My guess is that the results would show

important differences between the way in which each of these typologies could be morally justified. It is likely that some of them would fail to comply not only with *jus in bello*, but with *jus ad bellum* as well.

These suggestions represent only a limited number of possibilities for further researching terrorism. Nonetheless, its relationship with the just war theory is one of those fields that deserve a considerable attention, as it looks into the justifiability of the constitutive aspects of terrorism as one type of warfare.

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