Polemical Papers

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This volume comprises a selection of essays and reviews written between 1979 and 1994. Of the nineteen papers chosen three have been taken from two of my books, one from a Festschrift, five were originally published in learned journals, three first appeared in The New York Times, four in The New Criterion (Manhattan) and three in the Australian journal Quadrant.

The provenance of each is further described on its first page.

All the papers selected are non-technical. They have to do with human problems which are of interest not only to academic philosophers but to everyone else as well: problems relating to war and peace, to love and sex, and to life and death. Most of them are examples of what is sometimes called applied philosophy or practical philosophy. Practical philosophy can be defined as a theoretical subject which aims to deal, in a theoretical way, with problems that arise in real life; it thus has connections with ethics and with casuistry.

The work is called polemical because all the reviews and several of the other essays contain criticisms of arguments and theses put forward by various authors. Some criticisms are relatively mild but two or three are quite unkind; I think (well, I hope) that the unkindness varies in inverse proportion to the merits of the reasonings targeted. Be that as it may, most of those targets are themselves somewhat polemical, at least in a loose sense of the word, because they explicitly or implicitly recommend or condemn various important human practices and institutions. Thus J.F.M. Hunter's book recommends a swinging life style, Jonathan Lear's work recommends Freudian psychoanalysis, Ronald Dworkin recommends abortion,
euthanasia and the American Constitution and Peter Singer recommends infanticide. On the negative side Hugo Grotius condemns warfare, Jan Narveson condemns pacifism and several thinkers condemn terrorism without necessarily agreeing about what terrorism actually is. We see too that Jacques Derrida, Alasdair MacIntyre, Martha Nussbaum and Richard Rorty between them condemn several different philosophical practices or methods, that Elizabeth Anscombe condemns contraception, that James Q. Wilson condemns one-parent families and that Hannah Arendt condemns the breakers of eggs and the makers of omelettes.

These and similar recommendations and condemnations deserve critical analysis and perhaps can be expected to evoke replies of a somewhat polemical character; though one should remember, of course, that philosophical criticism can be and ought to be united with rational modes of argumentation.

Another way of explaining the need for polemic, i.e., for fairly stringent criticism, has to do with puffs and blurbs. The covers of academic books very often carry puffs, that is, brief recommendations signed by authoritative people, usually but not always, friends or colleagues of the authors. In America puffs are sometimes labelled 'advance praise'. Academic books also carry blurbs, that is, seemingly anonymous descriptions of contents or topics and short statements about the authors, their jobs, and their other publications.

All puffs are kindly, of course, since they are intended as recommendations; nevertheless they can be reasonably objective. But there is a Gresham's Law in operation here: ridiculous exaggeration tends to drive out good sense. When that happens advance praise becomes advanced praise - on the model of advanced mathematics. The adjectives brilliant, outstanding, magisterial have become pretty debased in recent years - though stunning and miraculous still carry a certain amount of zing.

Innocent readers might suppose that academic blurbs, which unlike puffs are always unsigned, are written by objective people sitting in the offices of publishing houses. Not so: most academic blurbs are written by the authors themselves, at the explicit request of their publishers. If and when a blurb is written by an editor it's not likely to be printed without the permission and approval of the author. Blurbs, therefore are excellent indicators of self-restraint and self-knowledge, on the one hand, and of pomposity, conceit and big-headedness on the other.

When faced with the kind of blurb which states that Professor N's book is brilliant, powerful, lucid, magisterial, outstanding etc., that
Professor N himself is internationally renowned, one of the world's leading metaphysicians, stunningly original (and so on and so on), it is understandable that some readers will be reminded of the words of Samuel Butler:

The advantage of doing one's praising for oneself is that one can lay it on so thick, and in exactly the right places.

Do puffs and blurbs mislead? I think they do. Even seasoned academics can be taken in, a bit, by puffs and blurbs, just as they are occasionally taken in by the ecstatic references written by some professors for their job-seeking junior colleagues. But students, including graduate students, are of course much more likely to be taken in. And that is a pity, because it encourages imitation and discourages the kind of intellectual self-reliance which is essential in philosophy and also, no doubt, in other disciplines. It follows that polemic, in the form of stringent (and, one hopes, rational) criticism, has a role to play: the role of antidote.

Finally, it is clear that philosophy is an inherently critical enterprise, it progresses by dismantling rather than by accumulation. Hume and others recommended that some kinds of theorising should be consigned to the flames. In *Parmenides* Plato overturned his own account of Universals or Forms. Schopenhauer and Nietzsche were both given to violent polemic. Wittgenstein condemned the theories of 'the author of the *Tractatus Logico-Philosophicus*', i.e., himself. It is still the case today that many works of philosophy consist almost entirely of analytic critiques of similar (or different) writings. That is and always has been the nature of the subject.
Part One
WAR AND PEACE
Most governments perceive terrorists as criminals. Terrorists themselves, on the other hand, often claim to be waging war. Is terrorism war, or crime, or both or neither? Or is the question itself unanswerable? To define war and crime is not too difficult; it is the concept of terrorism which causes problems. Everyone knows the slogan 'one man's terrorist is another man's freedom fighter', for it is apt to be solemnly recited, like a profession of faith, by all parties, in any discussion of the topic. Yet to adopt such a slogan is to give up on the attempt to use words in a meaningful way. Anyone who adopts that slogan ought to stop using the word terrorist forthwith. Needless to say this does not happen.

Terrorism is an elastic notion, but it is not totally protean - no meaningful concept can be that. However, when there is a strong motive to reject definitions and clarity, many people will prefer to mentalise via a slogan. In this context there is just such a motive.

The reasons why a politically committed person finds it difficult to accept any precise definition or description of terrorism are as follows: First, under a wide definition of terrorism the label is not necessarily derogatory. A wide definition might cover, for instance, such actions as the painless assassination of intolerable tyrants. Second, on any reasonable definition, even a very narrow one, it will turn out that several states and other non-revolutionary organisations, including some of those on the same side as the politically committed individual himself, will logically have to be classified as terrorist. The dilemma here is real enough in a subjective sense, but it must be ignored. Otherwise we won't be able
to answer any questions about terrorism at all. You can't answer questions about, or with, a wholly protean notion.

In order to answer the question raised at the beginning of this essay we need to develop a reasonably precise and not too elastic characterisation of terrorism. The word terrorism does have meaningful content, but its content needs explication.

One line of enquiry that looks promising, prima facie, is this. We start with a working account of terrorism as a species of wrongful rule or wrongful revolution. We then develop a distinction between just and unjust rule (or revolution, as the case may be) by extrapolation from the traditional doctrine of the just war. The outcome is going to be that, even though the traditional doctrine of the just war has defects, some of its elements can help towards a better understanding of the nature of terrorism. However, before we embark on the extrapolation we must first define war, crime, revolution and rebellion.

War is hostile contention by means of armed forces carried on between nations, or states, or governments, or between parties in the same nation or state. (An individual acting alone against a government wages war only figuratively.)

Revolution is the attempt to overthrow a government by force of arms, carried out either by its citizens, or by groups of foreigners sympathetic to a political or religious cause, or clandestinely by foreign powers using mercenaries, bribery, and so on.

Rebellion is revolution carried out by citizens or ex-citizens.

Crime is a word with more than one meaning. Crimes can be defined as offences against the criminal law, though that account does seem somewhat circular. Then again, crimes can be defined as acts which are punishable under a code, e.g., a code set up by the state; or simply as acts which are in fact punished by the agents of the state, though not necessarily according to a code. Finally, a traditional moralist might well describe wicked but legally unpunishable actions as criminal.

What are the species of terrorism? The original meaning of the word had to do with government, namely, the reign of terror which followed the French Revolution. Later, in the nineteenth century, and especially in Russia, terrorism came to mean tyrannicide. Nowadays the term usually refers to violent revolutionary activities such as those carried out by the IRA or by the late Baader-Meinhof gang. So the species of terrorism are: state terrorism as reigns of terror; state terrorism as wars of terror; revolutionary terrorism, consisting in organised attempts to
intimidate governments, or to overthrow them by violence; tyrannicide.

Terrorism is an essentially political activity, its aims are political aims. Thus the purpose of state terrorism is to disable internal or external groups perceived as enemies; the purpose of revolutionary terrorism is to overthrow governments; and the purpose of assassination is to force a change of policies, rulers or ministers. Usually the political aims of terrorism are primary, though occasionally, as in the case of drug barons, political change might be merely an interim means to a mercenary end.

What other features are essential to terrorism? Here we can attempt an extrapolation from the medieval doctrine of the just war.

According to the traditional doctrine, a war is a just war if and only if three conditions are fulfilled. The war must be carried out by a proper authority; it must have a good aim or purpose; and it must not use wicked methods of fighting. Some authors add a fourth condition: it is unjust to start or continue a war which you know you cannot win. One important defect of the doctrine is more practical than theoretical, stemming from the fact that while the three (or four) conditions of justice can in principle all be fulfilled at once, this might not have to be so in actual cases. It is possible, or seems possible in certain circumstances, for the conditions to conflict with one another. For example, it happens, in practice, that generals can be faced with, or think they are faced with, a choice between violating the fourth condition (fighting from a weak position) and violating the third condition (strengthening the position by using forbidden means). So, while it is theoretically possible to fulfil all the just war conditions, in practice it can happen that for good or bad consequentialist or other reasons rulers and generals don't always think they are really able to do so. However, since this difficulty is not one of theory I will put it to one side. The theoretical defects of the doctrine are different; moreover they show that that only some of its elements can be extrapolated from war (on the one hand), to ruling and revolution (on the other).

Consider the idea of proper authority. The traditional doctrine of the just war ignores the possibility of situations in which there is no proper authority. This is a defect in the theory qua theory. Because of this lacuna the first element of the doctrine cannot be extrapolated to revolutions because rebellions and revolutions by definition oppose authority. Even an organisation which is
attempting to overthrow a tyrant does not during the attempt become thereby a proper authority itself. Revolutionary organisations are not authorities, proper or improper, they are extra-governmental bodies, such as banned political groups, or the military forces. Alternatively, they might be foreign powers acting clandestinely: now, the authority of a foreign power is confined to its own people. The only commonsensical thing to say is that in some cases no one is a proper authority. The tyrant or usurper is not proper, because he is a tyrant or a usurper. Rebels and revolutionaries are not authorities, either because they are not yet a government or because they represent external groups or powers.

Now let's ask: how is it decided which of two combatants has the good (or better) war aims? In the end, mediaeval and later authors decided that a good war aim is any war aim which a legitimate ruler comes to sincerely believe is just after seeking the advice of the religious authorities. (There is a nice example in Act I of Shakespeare's *Henry V*.) This subjective criterion of justice means, of course, that usually both sides in a conflict will have good war aims; a serious defect in my view, and one which is equally serious when applied to rebellions and revolutions. Moreover, the overall aims of governments and revolutions are not always fully understood even by the participants, still less by religious or other outsiders.

It remains possible to say that terrorism is distinguished by its methods, for this third condition (of justice in war) can indeed be extrapolated to ruling, and to rebellion and revolution. Thus we could also argue that state terror is essentially a matter of ruling with cruel and random punishments, or of waging war with cruel or obliterative weapons; and that revolutionary terrorism can be distinguished from other kinds of revolution by the fact that it attacks people randomly or with deliberate cruelty.

Would this be a good way to characterise terrorism? Is it an accurate definition? I think so. First, it fits what seem to be the paradigm cases of terroristical behaviour. Second, it accords well with the fact that some of the more cruel and dastardly states and revolutionary organisations explicitly espouse the doctrine that their purposes justify any means whatsoever. Third, it is reasonably precise and unconfused; and fourth, it will allow us to answer the question as to whether terrorism is war, or crime, or both, or neither.

There are different kinds of crime, and it seems to me that ruling, and warfare, and revolution, can all be criminal. The
categories of war and revolution and crime overlap. Acts of terrorism can be both war and crime. Let us ask in what ways the different kinds of terrorism are criminal.

State terrorism in the form of warfare carried out by cruel or obliterative methods is a crime in the sense that it violates international protocols. It is also a crime in the sense of being wicked according to traditional Western morality.

State terrorism in the form of a reign of terror is a crime in the sense of being wicked but is it criminal in any other sense? The idea that a government can be not just wicked, but criminal in some other sense as well, is connected with the concept of legitimate authority. Now, political philosophers disagree about the basis of the authority of the state. To those who hold that any government which works is legitimate no workable government can be criminal. Those who hold that legitimacy depends on the will of the governed, or on the will of God, or whatever, naturally accept the possibility that a government can lack legitimacy and so can be criminal in that sense. Readers must decide for themselves what they think about this matter.

Many acts of revolution, such as kidnappings, hostage-taking, blowing up civilian ships and aeroplanes, and so on, are, of course, crimes in a very ordinary sense of the word, they are against the law of the land. Moreover, whenever a revolution involves warlike deeds which violate international protocols it will be criminal in the same sense that the terroristic warfare of states is criminal. (See above.) Assassination of rulers, whether or not they are tyrants, is of course illegal. Many have argued, though, that in some cases the assassination of a great tyrant is justified by moral considerations which override the law. If this is correct then we have here a type of terrorism which is legally criminal but morally right.

It has to be recognised that there is a lot of support in the world at large for terrorism, even when this is defined as involving random cruelty and such. So we might want to ask which side we should take. Ought we to go along with the idea that the political purpose of a government, or of a war, or of a revolution, can justify any means whatsoever? Who says it can't?

Well, who does say it can't? The idea that a good purpose does not justify evil means is a traditional part of the theoretical moral baggage of the Western world. But Western intellectual baggage includes other stuff as well. Utilitarianism, the philosophy of utility, is another piece of current intellectual baggage and one which lends support to the idea that noble ends justify evil means.
Or remember the slogan 'good guys don't win': this, too, is perhaps part of current Western moral baggage. Consider also the idea of the holy war. It would appear that in a holy war it is all right to treat an enemy people in any way you like. That certainly seems to have been the ideology of the Crusaders. Islam has its own version of holy war ideas - thus in chapter 8 of the Koran it is written: 'It is not for the Prophet to take captives until he hath made slaughter in the land'. And in chapter 9 it is proclaimed that true believers have no obligations towards idolaters even if promises and treaties have been made. Treaties with idolaters may be violated and any idolaters captured in battle must be killed unless they convert.

Holy war ideas are still current in the modern world in that such ideas are used from time to time to justify various kinds of violent behaviour. According to a London newspaper, The Independent, the ruler of a country in the Middle East claimed in 1989 that torturing captured terrorists (guerrillas) is permitted under Islamic law.

Nevertheless it is fairly clear that international law on war is not based on utilitarian considerations, neither does it rest on holy war traditions. It appears, rather, to be based on the just war doctrine of the Christian church, and especially on its third condition. The similarity between international law and just war doctrines can be shown by simple comparison.

As we have seen, the teaching of the Christian church was that justice in war requires three conditions: the war must be waged by a proper authority, that is, by a legitimate government; it must have a just purpose; and it must be waged by means that are just. Different authors fill out the details in somewhat different ways. For instance, views about what counts as a proper authority are unexpectedly elastic. During the Cold War Pope Pius XII said that only a democratically-elected government can be legitimate, an opinion very much at odds with those of some of his predecessors.

All exponents of the doctrine of the just war take it for granted that self-defence as such is not unjust. Regaining stolen property, and punishing evil rulers, are commonly listed as possible good causes. The third condition, the 'just means' condition, created trouble. Some authors seem to hold that the rules about means should be broken if sticking to them would bring defeat.

Grotius has much to say on the subject of justice and warfare. He agrees with earlier authors that the only good reason for starting a war is to right wrongs, but argues that even a just war is a bad thing, to be avoided at almost all costs. Peace, he says, is more important
than freedom. As to the proper conduct of war, Grotius condemns
the killing of innocent people (women and children and old men),
and the killing of prisoners of war, and torture, and the destruction
of holy places and works of art, and the destruction of crops, and
attacks on neutral countries. These constraints are comparable with
those mentioned in the documents of modern international law.

The 1978 Red Cross document on the fundamental rules of
international humanitarian law applicable in armed conflicts
includes a summary of the laws applicable to war and runs as
follows:

Persons *hors de combat* and those who do not take a direct
part in hostilities are entitled to respect for their lives and
physical and moral integrity. They shall in all circumstances be
protected and treated humanely without any adverse
distinction.

It is forbidden to kill or injure an enemy who surrenders or
who is *hors de combat*.

The wounded and sick shall be collected and cared for by the
party to the conflict which has them in its power. Protection also
covers medical personnel, establishments, transports and
equipment. The emblem of the red cross (red crescent, red lion
and sun) is the sign of such protection and must be respected.

Captured combatants and civilians under the authority of an
adverse party are entitled to respect for their lives, dignity,
personal rights and convictions. They shall be protected against
all acts of violence and reprisals. They shall have the right to
correspond with their families and to receive relief.

Everyone shall be entitled to benefit from fundamental judicial
guarantees. No one shall be held responsible for an act he has
not committed. No one shall be subjected to physical or mental
torture, corporal punishment or cruel or degrading treatment.

Parties to a conflict and members of their armed forces do not
have an unlimited choice of methods and means of warfare. It is
prohibited to employ weapons or methods of warfare that are of
a nature to cause unnecessary losses or excessive suffering.
Parties to a conflict shall at all times distinguish between the civilian population and combatants in order to spare civilian population and property. Neither the civilian population as such nor civilian persons shall be the object of attack. Attacks shall be directed solely against military objectives.

The similarities between this summary of modern international laws of war, and traditional accounts of what constitutes justice in warfare, are fairly obvious. Moreover, because international law on war concentrates on means and not ends it can be extrapolated to terrorism when terrorism is narrowly defined, as suggested above, in terms of its methods rather than its aims.

We can conclude that, given our precise definition of a term which is admittedly contentious in polemical contexts, terrorism properly so-called is sometimes war and always crime.
References


Franciscus de Victoria: see Victorio.


The Independent (17 November 1989), article on Iraq.


Pickthall, Mohammed Marmaduke (no date given), The Meaning of the Glorious Koran, chapter 8 and chapter 9, Mentor Books: London.


Victorio, Francesco (1917), De indis et de jure belli relactiones, being part of Relectiones theologicae xii 1696, Classics of International Law, Carnegie Institute, Washington: (edited by E. Nys and translated by J.P. Bate).