



Harry & Helen Gray
Humanities Program Series
Volume 14



WAR AND TERROR
IN HISTORICAL AND
CONTEMPORARY
PERSPECTIVE



Edited by
Michael Geyer
University of Chicago

American Institute for Contemporary German Studies
The Johns Hopkins University



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F O R E W O R D

The terrorist attacks on September 11, 2001, have led to a proliferation of literature about war and terror that exceeds everything seen during the Cold War and its horrific aftermath in the Balkan wars of the 1990s. One of the immediate effects of President George W. Bush's declaration of "war on terrorism" shortly after the terrorist attacks was an avalanche of position papers, strategy volumes, journalistic, and scholarly publications whose expansion has darkened the horizon no less than the clouds over New York and Washington. What fueled much of it was the notion that the attacks of September 11 created a fundamentally new state of world affairs. The symbolism of entering a new century with an attack against the United States on American soil gave this notion an historic ring. However, as the paper cloud thickened, the initial European-American solidarity crumbled. The notion of a new state of world affairs did not quite catch on in Europe where most nations had experienced their own brand of terror and terrorism. Much of the discord originated in the increasing determination of conservative American elites to reformulate domestic and international politics according to President Bush's war on terrorism.

Aside from the need to understand what this new determination of the sole superpower means to transatlantic relations, the practices of terror and warfare require careful rethinking, taking into account the different national traditions and conditions. This volume attempts to contribute to this rethinking by highlighting German and American experiences with terror and terrorism. It engages twentieth-century history in the hope of finding some guideposts for understanding war and terror in the new international predicament.

This volume is based on the workshop, "War and Terror: Historical and Contemporary Perspectives," which took place on October 25, 2002, roughly a year after the events of September 11, when the differences between the United States and Europe, especially Germany and France, had taken a dynamic on their own. Organized by Michael Geyer, one of the foremost scholars of modern German military history, with experts from a variety of backgrounds, the workshop confirmed the need for a long-term view of the connections of war and terror that engages the history of warfare in the twentieth century no less than that of the emergence of international legal and

institutional constraints on such warfare. This long-term view includes wars of liberation and their uses of terror like the Algerian war of the 1950s, which proved to be illustrative for recent encounters with Islamic militancy.¹ It also includes the West European experience with terrorism in the 1970s, which in West Germany became an unprecedented challenge to the newly created democracy and its civic institutions. Such a view distinguishes and links the origins of terror as part of the modern war machine in World War I, the emerging reality of what has been called “small wars” and is destined to determine future confrontations, and the consequences of the American strategy of fighting to complete victory and the demand for freedom of action in conducting warfare.

The volume extends the assessment of the reactions to September 11 in the United States and Germany which constituted the focus of an AICGS study group in 2001/2002 under Daniel S. Hamilton² and turned into a bone of contention in the debate on “Just War” in spring 2002. At an AICGS forum in May 2002, the manifesto of fifty-eight American intellectuals—among them Michael Walzer, Francis Fukuyama, and Samuel Huntington—in favor of the concept of a just war became, together with the critical reaction of German intellectuals, the catalyst of a lively debate about America’s unilateralism and Europe’s multilateralism.

In the most historically based of the following essays Michael Geyer reaches back to the use of terror in German warfare in World War I. Originating in research on a long forgotten chapter of World War I history, Geyer argues that, following brutal colonial wars of suppression, German military decisions included terror as the kind of violence that deliberately aims at undermining the sense of safety and integrity of the land and its people. Concurrent with the definition of terror as an instrument which eliminates the distinction between soldiers and civilians, he lays open the emergence of a kind of warfare that Trutz von Trotha analyses as rampant in the “small wars” of recent decades where military battles are replaced by massacre of civilians. When the distinctions between aggression and self-defense evaporate, global small war, von Trotha avers in his keen overview of modern warfare, becomes a war of aggression in which “each warring party *is* at once aggressor and aggressee.” Terror becomes an option in a world, Geyer summarizes, “in which victors

cannot be certain about their victory and the defeated are never defeated enough to give up.”

Or are they? Didn't President George W. Bush conclude his declaration of war on terrorism with the promise to wipe it out from the face of the earth? In his discussion of the American conduct of war toward complete victory and resolution to take unilateral action, Thomas Keaney leaves no doubt about the determination to counter the trend toward open-ended warfare. Keaney's stirring scenario which has hardly lost its significance since the occupation of Iraq, sheds light on the causes of the European-American discord. How deeply this discord has affected German-American relations in general is the topic of Elizabeth Pond's reflections. Although the disaffection reached its high point—or rather low point—shortly before the American-British attack against Iraq, Pond illuminates the stages of estrangement in the preceding period. The negative fall-out of these stages still overshadows decades of mutual trust and understanding. Obviously it does not help that the West Germans had their own “war on terror,” as Karrin Hanshew shows in her study of political violence in the 1970s when an untried democracy barely held on to its civility. And yet, while Hanshew delivers intriguing insights into the process of developing a “militant democracy” in Germany, she exemplifies the need for balancing state power with the maintenance of civil liberties as a universal goal, irrespective of the maturity of the democracy.

In his concluding outlook, Geyer ascertains how hard a task this represents in our age of advanced weapons and surveillance technology. With its destruction of sense-security, terror has become the ultimate challenge to civil society to maintain safety without undercutting civility. Geyer's look at the various national styles in handling this condition is not without hope for the future. Yet most expectations have been and still are directed toward supra-national organizations. Daniel Moran assesses the much-disputed contributions of the League of Nations, the Geneva Conventions, the International War Crimes Tribunal at Nuremberg, and the United Nations to establish constraints on warfare and the use of terror. Moran's concise analysis of these international efforts provides a frame of reference whose significance for current and future intervention against terrorism and confirmation of human rights cannot be overestimated. Therefore, it opens this remarkable volume.

The American Institute for Contemporary German Studies expresses its gratitude to the participants of the workshop and their contributions to the

publication. Michael Geyer deserves particular thanks for organizing and editing this timely assessment.

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ENDNOTES

¹ Matthew Connelly's study on the Algerian war which was part of the workshop, can be accessed in its entirety in his volume, *A Diplomatic Revolution: Algeria's Fight for Independence and the Origins of the Post-Cold War Era* (Oxford/ New York: Oxford University Press, 2002).

² *Fighting Terror: How September 11 Is Transforming German-American Relations* (Washington: American Institute for Contemporary German Studies, 2002).

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RESTRAINTS ON VIOLENCE AND THE RECONSTRUCTION OF INTERNATIONAL ORDER AFTER 1945

Daniel Moran

Perhaps the least interesting thing that can be said about war and terrorism at the moment is that both are illegal under international law. The indifference that this statement inspires arises from the perceived incapacity of law to impose any meaningful restraint on international violence. If we were to address the same statement to an observer from the beginning of the last century, however, it would at least have whatever interest arises from improbability. To someone in 1900, the law of war would have seemed to point in quite another direction: toward a regulatory regime designed to limit the social costs of interstate conflict, and so preserve its utility as an instrument of policy. It is only a slight exaggeration to say that, at the turn of the twentieth century, international law governing the use of force was on its way to becoming a branch of strategic theory. As far as terror was concerned, there really was no international law about that. A century ago terrorism mainly meant systematic governmental brutality, such as had prevailed in France during the eponymous Reign of Terror in the 1790s. Secondly it might also refer to the random violence practiced by anarchists and other revolutionaries, a cause of international concern, perhaps—at least when the victims were heads of state—but still a problem that fell squarely within the purview of municipal, rather than international, justice.

THE LEAGUE OF NATIONS AND THE UN

The criminalization of war, and the recognition of terror as a problem of international significance, were a consequence of the world wars, whose scale and conduct demolished any hope that industrialized warfare could have a place within a stable international order. A preliminary attempt to place world politics upon a new footing was made in the Versailles settlement of 1919, which set down the terms of peace between Germany and its opponents, and also sought to establish the basic elements of a new system. Versailles's more visionary aspects were backed most strongly by America's president, Woodrow Wilson, who had led his

country into the war in part because he had come to believe that the traditional structure of international relations would not survive the outcome, whatever it might be, and that no country that was not a belligerent could expect to have much of a say in shaping the future.

Wilson believed the chief sources of violence in the world were the excessive accumulation of modern armaments, the prevalence of tyrannical regimes indifferent to the welfare of their people, and the secretive practices of diplomacy, which allowed the parochial interests of states to prevail over those of humanity by shielding them from public scrutiny. Versailles' efforts to remedy these defects through the promotion of universal disarmament, and of "national self-determination" as a political value, and above all through the creation of a League of Nations empowered to harmonize the conduct of its members, ultimately proved too radical for Wilson's own government. Yet from the vantage of the Second World War, these bold departures appeared to be but half-measures, whose effectiveness had been compromised by a variety of cross-purposes: a desire for revenge against Germany, the persistence of imperialism and geo-political rivalry among the victors of the Great War, the requirements of post-war economic recovery, and so on. The failures of Versailles cast their shadow over the Second World War from the outset,¹ and when the end came those responsible for making peace were determined to do better, not by undoing the work of their predecessors but by proceeding more resolutely down the path they had blazed.

The foundations of contemporary international order with respect to the suppression of violence were laid in the immediate aftermath of the Second World War. It was, as Robert Jackson, Chief of Counsel for the United States at the Nuremberg trials, observed, a moment at which "the thought and institutions and habits of the world [had] been shaken" as never before; yet one whose moral impetus would "quickly pass."² The pressures of that moment left their mark on the work of those who confronted them. Their vision of the future was strongly colored by the carnage and squalor of the recent past. Yet their capacity to look beyond it remains impressive, as is evident if one considers how halting and contested have been all efforts to broaden the intellectual horizons they established. To the extent that any principled consensus exists today about what is right and wrong, allowed and not allowed, in international affairs,

it remains firmly rooted in a clutch of precedents and agreements established at the end of the 1940s. Their limits are our limits, which is reason enough to study them.

Among those agreements and precedents three stand out as forceful statements of the rules intended to govern recourse to violence: the Charter of the United Nations, the record and judgment of the International War Crimes Tribunal at Nuremberg, and the four Geneva Conventions for the protection of victims of war, concluded in 1949. To focus on statements is admittedly to prefer words to deeds, thought to action, even in cases such as these, which are not expressions of theory or aspiration, but public decisions by which the international community has professed, in varying degrees, to be bound. That the binding is not as tight as one might wish speaks to the well-known weakness of international law's coercive powers. Although the established precepts of international law are seldom openly flouted—even the most reprehensible governments evidently feel obliged to make a show of their observance³—they are evaded or traduced with sufficient frequency as to have inspired a large literature addressing the question whether international law is really law at all.⁴ It is, fortunately, beyond our purpose to consider this problem. For now it is enough to stipulate that international law and international order are not the same thing, the former being no more than a prop and avatar of the latter; and that, nevertheless, if one is interested in the ethical norms and cognitive boundaries that shape conduct, the pronouncements of law afford a reasonably precise and synoptic view, since it is the business of law to make such things explicit.

To which, however, it may be worthwhile to add a preliminary observation about the power of law to illuminate the twin problems of war and terror. War, however brutal its methods or atavistic its purposes, is always a normative process, which proceeds against a background of rules, rituals, and customs, without which it could not be recognized for what it is: the organized violence of belligerent communities. Terrorism is not a normative process, but a calculated transgression of whatever norms may attach to the use of force at any given moment. It is thus inevitable that, when called upon to address the problem of terror, the language of law must do so in part through its silences.

Not the least striking feature of the years immediately following the Second World War is the manifest desire of the victors to reaffirm the rule of law as a governing principle of international relations, an impulse at least a little surprising in light of the disappointments of the 1930s, and more than a little incongruous given the by then well-known propensity of the Soviet Union to tyrannize its own population. The legalism of the new order was owed chiefly to the influence of the United States, which had inspired the creation of the League, and would now become the prime mover behind its more robust successor, the United Nations. Franklin Roosevelt envisioned the UN as a quasi-constitutional international confederation, patrolled by the most important of the victorious powers—the United States, the Soviet Union, Great Britain, and China—whom Roosevelt dubbed “the Four Policemen.” Roosevelt’s metaphor immediately calls to mind the many occasions over the last half century on which his successors have foresworn the role he envisioned for them. At the time, however, the need for well-armed police was one of the clearest inferences to be drawn from the recent past.

The League of Nations had failed, it was felt, because it had relied too heavily upon the atmospherics of collective security to keep the peace. Among the twenty-six articles of its Covenant, ten dealt with the problem of preventing war, too many, perhaps, for a matter in which only the most uncompromising measures can hope to succeed. Nowhere among them does one find language authorizing and requiring the League to use force to keep the peace. Its methods were rather those that might be employed to settle labor disputes. Members were expected to submit their quarrels to one of several League agencies for arbitration, and then to refrain from going to war with each other for at least three months after a decision had been handed down.⁵ While the League might seek to mobilize its members to impose economic sanctions, or even to take military action, such measures could only be taken by majority vote of the entire membership, and even then participation was not compulsory. The most severe penalty the League could impose directly was implicitly self-destructive—expulsion of a member, a step taken only once, against the Soviet Union, following its invasion of Finland in 1939.

The logic and language of the UN Charter would be more emphatic in their anathema on international violence, and more empowering of

the police. Their role, as Roosevelt had envisioned it, would be to step in directly should any state “start to run amok and seek to grab territory or invade its neighbors,” in which case, he said, they would be “stop[ped] ... before they got started.”⁶ The policemen would know whom to nab because violence in any form, undertaken for any cause other than self-defense, was prohibited, all members having agreed to “refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.”⁷ The highest of those purposes, as the Charter’s Preamble proclaimed, was “to save succeeding generations from the scourge of war.”

THE UN CHARTER AND THE CONDUCT OF WAR

The practical defects of this structure are now so familiar as to require only the briefest of summaries. Chief among them was the tendency of the policemen to fall out among themselves, a risk signaled by the belated addition of France to their number in order to provide an additional counterpoise to the threat of Soviet expansionism in Europe. The failure of the Charter to provide the UN with armed forces of its own is sometimes proposed as a shortcoming as well,⁸ though it is difficult to see how such forces, had they existed, could ever have been employed, given the disabling effects of ideological confrontation within the Security Council.

Recent events have also drawn attention to the potentially expansive meaning that can be assigned to the idea of self-defense, the only basis on which UN members may use force outside the ambit of a Security Council mandate. The essence of the defensive, Clausewitz tells us, is “awaiting the blow,”⁹ a standard that, if rigorously applied, would have allowed the Charter to accomplish one of its main tasks, which was to establish a bright-line rule by which international violence might be stigmatized: whoever struck first would be the guilty party, against whom enforcement could be directed. There are those who believe this is indeed the meaning of the Charter, whose language is doubtless as categorical as could ever be compatible with the need to get members actually to sign it. Yet it seems unlikely, in the shadow not simply of Hiroshima but of Munich, that the founders of the new world order should have wished

to require peaceable nations to wait patiently while mortal danger accumulates, or to suffer an attack they might have intercepted. That the result is a slippery slope, leading from “anticipatory self-defense” through “preemption” to “preventive war,” is clear enough. The fact remains that the import of the Charter is to outlaw not war, but aggression, an evil even more difficult to define in normative terms than war itself.

The significance of the UN Charter for the modern law of war lies less in its path-breaking but ineffective police mechanisms—a halting step, as some hoped and others feared, toward “world government” of a kind that might finally give the law of nations real teeth—and more in its affirmation of the absolute sovereignty of states, and of what in earlier times had been called *jus ad bellum*—the right to go to war, provided the cause is just. The Charter makes peace the supreme value of the international system not by assuring that all breeches will be punished, but by the indirect means of guaranteeing the independence and autonomy of UN members, whose freedom of action may not be interfered with for any reason, so long as they do not forcibly infringe the equally sacrosanct sovereignty of their neighbors. The two most fundamental norms governing the use of force under the Charter—non-aggression, and non-intervention - were thus inextricably linked at their moment of birth, and have circled around each other ever since. Estimates will vary as to how heavily these precepts should be weighed, alongside the material facts that have tended to limit interstate conflict since the Second World War. The most compelling of these is the recognition, which has become general among advanced societies, that war under modern conditions is rarely or never a paying proposition; to which may be added the insistence of the major contestants in the cold war, the United States and the Soviet Union, that conflicts among their clients be conducted within boundaries that respected their own, primary relationship. What seems certain is that the UN’s embrace of sovereignty as the supreme mechanism for keeping the peace has hampered it in addressing what would prove to be the most persistent challenge to world order in the future: not international, but civil war – albeit civil war arising for the most part from the distinctly international phenomenon of decolonization.

It was in this connection that renewed claims of *jus ad bellum*—the right to conduct just war—would be advanced by those engaged in wars

of “national liberation” against imperialist regimes, a cause for which the UN General Assembly has repeatedly expressed its sympathy, the more insistently as its membership has been swelled by the victors in such conflicts.¹⁰ The proposition that lawful resistance to aggression is a right held by peoples and not just by states is not one the UN Charter supports directly. But it has proven difficult to resist, given the Charter’s underlying supposition that international peace and social justice must inevitably go hand in hand.

It was, moreover, the Great Powers, and again, especially the United States, that had reintroduced the question of just war into international law, from which it had gradually disappeared during the two centuries that preceded the outbreak of the First World War—a period in which the law of war had made much headway precisely because it had set aside the question of just cause in order to focus on matters of fair conduct. The Versailles settlement had cut across this line of development by proclaiming aggressive war to be the ultimate international crime—one for which the Kaiser might have stood trial, had he not sought refuge in neutral Holland; the aim being to establish a principled basis for punitive measures against Germany. This claim was strengthened and generalized in the so-called Kellogg-Briand Pact of 1928 (officially the General Treaty for the Renunciation of War as an Instrument of National Policy) to which all major states were party. Although the latter measure was conservative in its purpose—its aim was to outlaw any effort to change the international status quo by force—it naturally raised the question, particularly among those on the periphery of the world system, why the fruits of past aggression must be allowed to stand inviolate. This is a question to which the UN has not been able to give a firm answer, and its capacity to moderate international violence has suffered accordingly.

NUREMBERG

The punishment of aggression also underlay what, in the eyes of the general public, was surely the most riveting spectacle thrown up by the legal aspects of post-war reconstruction: the International Military Tribunal convened at Nuremberg to try the senior Nazi leaders who had fallen into Allied hands. The Nuremberg trials were the first, and until

recently the only, major judicial proceeding intended to enforce the laws of war. They have the perhaps unique distinction, in the annals of law, of having reached a result almost universally regarded as fair and reasonable by a process that is no less universally judged to have been deeply flawed—the exact nature of the flaws being much disputed, though two stand out. The first is that Nuremberg was a victor’s trial, in which the misdeeds of those who had lost the war were held up to scrutiny and censure, while the crimes of the winners were passed over in silence; a complaint that has been retrospectively strengthened by the reluctance of the states that sat in judgment to apply the resulting precedents to their own subsequent conduct.¹¹ The second flaw, compounding the first and more far-reaching, is that the crimes charged at Nuremberg had no recognized place in international law when they were committed, a violation not merely of “equal justice” but of the basic logic of law as such. Justice Jackson acknowledged the difficulty in his opening statement, warning all concerned “never [to] forget that the record on which we judge these defendants is the record on which history will judge us tomorrow. To pass these defendants the poisoned chalice is to put it to our lips as well.”¹² Not to proceed, however, would have been to pretend that “there has been no war, there are no slain, there has been no crime.”¹³

Nuremberg is remembered for having introduced an irreducible element of personal responsibility into the conduct of war and international relations, and for elaborating upon three major categories of international crime, one of which was entirely new: that of crimes against humanity. Both achievements are important, but the latter especially so for our purposes, because it was in respect of this issue that the post-war international order first came face to face with the problem of terror. It did so in step-wise fashion, reasoning outward from the principle of non-aggression, toward a more direct confrontation with human evil.

The legal foundation for the court’s work was the Kellogg-Briand Pact, by which Germany, eleven years before its attack on Poland, had renounced war as an instrument of policy. This became the basis for the first of the crimes specified in the Nuremberg indictment:¹⁴ crimes against peace, which included “planning, preparation, initiation, or waging of a war of aggression or a war in violation of international treaties, agreements

and assurances”; and also of conspiring to do any of these things. The Nuremberg formula governing crimes against peace is in effect an expansion and application of treaty law, rather than a wholly new creation—though the expansion is considerable, the application unprecedented. Aggression now became a crime not just of states but of individuals, and extended even to those who had conspired in its commission, an unusual step, given that the idea of conspiracy had little or no standing in international law up to then, but one that was thought necessary if the court’s rulings were to apply below the highest levels of government.¹⁵

To crimes against peace were then added “war crimes,” a long-familiar concept to which the Nuremberg proceedings added little, apart from an incontrovertible demonstration that virtually every provision of pre-war Hague and Geneva law had been violated on an almost inconceivable scale, and that those in the dock had done it. The prosecution was sufficiently confident that everyone knew what war crimes were that it did not even feel the need to supply a complete list, but merely illustrative examples, including:

Murder, ill-treatment, or deportation [for] slave-labour or for any other purpose of the civilian population of or in occupied territory; murder or ill-treatment of prisoners of war, or [of] persons [shipwrecked] on the seas; killing of hostages; plunder of public or private property; wanton destruction of cities, towns, or villages; or devastation not justified by military necessity.¹⁶

These crimes were not dependent upon a finding that a crime against peace had occurred. Even victims of aggression could commit them, and one of the clouds that would overhang the trial was the certainty that they had in fact done so. In 1945 the expression “wanton destruction of cities” called most vividly to mind the allied strategic bombing campaign, a form of fighting to which the word “terror” was routinely applied by its critics, and one that was omitted from the Nuremberg proceedings. So too were all but a few cases of indiscriminate submarine warfare, a practice that had stood out as the epitome of barbarism in the First World War,

but was now let slide for no better reason than because the victors had found it necessary to employ it themselves: “execute unrestricted ... submarine warfare against Japan” was the first general order issued to American forces following the attack on Pearl Harbor, though it must be admitted that its initial effect was to inspire bafflement rather than swift compliance, since no naval doctrine existed to describe what to do.¹⁷ In any event it was no small thing that, after Nuremberg, the exculpatory effects of military necessity only extended to “devastation,” and not to the other crimes specified in the indictment.

Nor could military necessity excuse crimes against humanity. The need to bring this most innovative charge had little to do with providing sufficient reason to punish the defendants—though in the end two were convicted on this count alone. The main motivation was a wish to elevate the Tribunal’s proceedings to a higher plane, and to justify its independent existence, apart from the hundreds of other war crimes trials conducted by national or military courts in the countries where the crimes had occurred. The point of Nuremberg was to address acts that violated or transcended the most fundamental norms, territorial as well as moral and political; and also acts that, however transgressive, might nevertheless seek protection under a debased municipal law, specifically heinous acts committed by the Nazis against the inhabitants of Germany. All these aspirations were compressed into the following brief definition:

Crimes Against Humanity: namely, murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war; or persecutions on political, racial or religious grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated.¹⁸

Much can be made of these few words, and has been. The identification of racial and religious persecution as elements of international crime is of course seminal, and would go far to bolster the claims of *jus ad bellum* as applied to wars of national liberation over the

next quarter century. In legal terms the final claim that international jurisdiction trumps settled domestic law is striking. To a historian, however, for whom the order in which things happen can become a matter of obsessive concern, the word that stands out is a simple one: *before*. “Inhumane acts committed ... before ... the war.” What are we to make of that? When do those acts become crimes? During the war? or only because they lead war? What if a state decides to judicially murder some fraction of its citizenry, but war does not ensue, because its sovereignty is respected? What then?

What we’re seeing here is, I think, at least unusual, perhaps remarkable: international society, beset by unexampled horror, by “terror,” clings with one hand to something it knows well, something all too “normal”—war—while stretching out with the other toward something dangerously unfamiliar, for which no norms or boundaries can as yet be described—toward “humanity.” Reaching, but not getting there. We know this because this is the one element of the Nuremberg indictment that did not survive the second thoughts of the Powers who sat in judgment, nor the unraveling of their mutual relations. Five years later the UN would instruct its International Law Commission to “formulate the principles of international law recognized in the Charter of the Nuremberg Tribunal, and in the judgment of the Tribunal.” And there one finds that, while the list of crimes against humanity is substantially unchanged—it even includes mistreatment of a state’s own population, albeit implicitly—such acts are now plainly said to occur only in connection with crimes against peace, or “any war crime.”¹⁹

One anticipated effect of the Nuremberg judgment was that it would add the weight of personal legal liability to the systemic prohibition of war embodied in the UN Charter. It was also expected to strengthen the more traditional laws of war enumerated in the Hague Conventions of 1899 and 1907, which went no further than to assign responsibility for war crimes to the state whose soldiers had committed them, and to recommend compensation. In the wake of the Second World War, however, the question of how far war crimes should continue to demand the attention of the world was contested. That the war had been conducted with scant regard for any legal or customary restraints was not doubted. Yet the enormity of the violations discouraged reform, in favor of more

radical measures, intended, if not to make war a thing of the past, then at least to drive it to the periphery of the world order, in the same way that crime inhabits the margins of a well-ordered civil society. Many doubted that such a vision would be realized any time soon. Yet it was difficult for the United Nations to address the question of how legally to engage in a practice it was created expressly to abolish.

THE FOUR GENEVA CONVENTIONS

It is for this reason that the task of revising international law governing the conduct of war would be taken up not by the UN, but by the International Committee of the Red Cross. The Red Cross had been founded in 1859 to care for sick and wounded soldiers, and since the 1860s it had lent its prestige and organizing skill to the develop of rules governing their treatment. In the 1920s its official interest was extended to include prisoners of war as well, to whom relief could not be provided except by an organization that practiced the most unbending neutrality. This spirit pervades the four Geneva Conventions concluded under Red Cross auspices in 1949. The Conventions have been in the news lately, which has put me in mind of a remark attributed to Andrew Carnegie, who once said that he knew there was trouble afoot whenever the business news made the front page of the paper. Those interested in international affairs may well feel the same way about the Geneva Conventions, whose provisions can only come into play after something has gone terribly wrong. The Conventions make no reference to the rights and wrongs of aggression and self-defense, nor of social justice. Their sole interest is in protecting the victims of war from its inherent cruelty.

Each of the four Conventions deals with a separate class of victim. The first three classes – sick and wounded soldiers, shipwrecked sailors, and prisoners of war—were already subjects of a substantial body of law, to which the new Conventions added additional specificity and detail—an effort, if nothing else, to take notice of the many breaches of theretofore customary practice that had just occurred, and to plug the resulting gaps. The Fourth Convention, which deals with the rights of civilians in war, likewise reflects the limits of its moment. It is concerned almost entirely with the fate of civilians subjected to an enemy occupation,

a setting for much recent barbarity, but scarcely the only circumstance by which civilians can be victimized by war. Nevertheless, it is the first effort to put some flesh on the bare-bones principle that it is wrong to make war on civilians, either directly or through gross negligence. All four Conventions also include ten “common articles,” which (rather in the Nuremberg spirit) enumerate absolutely prohibited actions—murder, torture, hostage-taking, and so on—and establish bare minimum standards of decent behavior—that the sick and wounded must be cared for, that no one charged with a crime may be punished without trial, etc.—which are to apply “at any time and in any place whatsoever,” including during “armed conflict not of an international character.”²⁰

Like the Nuremberg trials, the Geneva Conventions press against the limits of a system whose most central value is state sovereignty, but in a slightly different direction: not toward personal liability—though that principle is fully incorporated—but toward the law of human rights, an expression the Conventions do not use, but to which their underlying logic implicitly refers. Before Geneva, the law of war stood squarely upon two pillars: the rights of neutrals, and the reciprocal interests of belligerents. It is obvious why laws arising from these two sources might at least have a chance to be respected. Actions that abridge neutral rights risk transforming a neutral into an opponent; while actions that mistreat the armed forces of the enemy were liable to be met with reprisals against one’s own troops. Geneva does not take this approach, but treats its various victims as protected classes of persons, who are entitled to the benefits of law not because of the possibility of reprisal, but simply because of who and what they are. This is especially clear in the effort to extend some protection even to rebels and revolutionaries, who almost by definition cannot undertake any reciprocal obligation toward their opponents (though some have tried, by way of seeking to legitimize themselves internationally).²¹

The logic of belligerent reciprocity is also inherently weak with respect to the protection of civilians. Even a commander who cares nothing for the lives of his own soldiers still has reason to wish to see POWs and the wounded protected, for instance, since it is in his interest that defeated enemy forces should surrender, rather than carry out a last-ditch, last-round resistance that can only harm the efficiency of his own operations.

The protection of POWs thus affords a clear tactical benefit, independent of its humanitarian effect. This is much less clear when the victims are civilians. A force occupying enemy territory may well conclude that the calculus of military effectiveness runs the other way. Protecting and caring for civilians usually entails substantial extra effort, if not extra risk, while offering no reciprocal advantage for one's own, unoccupied population. Moreover, brutality toward civilians is often rationalized as a means of putting extra pressure on the other side to lay down its arms, and so of "saving lives." Whatever else may be said about the Fourth Geneva Convention, it is not merely an expansion of the traditional law of *jus in bello*—of justice in war—but a new departure, however limited it may have been in immediate application.

Efforts to expand that field of application have not fared well. Apart from the Geneva common articles, it has proven difficult to extend the protections of international law to armed forces other than those of established states. A major effort was made in this direction in 1977, in the form of two Additional Protocols intended to expand upon the original Geneva protections, the first dealing with international conflict, the second with internal wars. These have not achieved the near-universal acceptance of the original conventions. A number of their provisions tread too close to what are often somewhat delicate questions of military judgment, such as what exactly constitutes a legitimate military target.²² Others display a painfully cheese-paring quality, as, for instance, the effort to explain when combatants may dispense with the requirement of visible insignia.²³ Application of the Second Protocol has also been hampered by the fact that even post-colonial regimes, which initially promoted its formulation and have widely ratified it, have nevertheless been disinclined to extend legal recognition to those whose sole purpose is to destroy them.

NEW QUESTIONS POSED BY TERRORISM

If it has proven difficult to extend the principles of *jus in bello* to revolutionary war, it will likely prove even more difficult to apply it to the problem of terrorism. To see why one may consult the language of the Second Protocol, which proposes to extend Geneva protections to insurgent movements provided they meet certain requirements, including

adherence to “the laws and customs of war,” which would of course include the Geneva Conventions themselves. To this any revolutionary worth his salt would have to respond that such a requirement is a warrant for suicide. To a terrorist, moreover, Geneva Law is not merely out of reach, but absurd. The “laws and customs of war” are not boilerplate. Their minimal requirements are in fact easily summarized. The use of force in war is legal provided it is directed against military objectives, is not likely to cause unnecessary suffering, and is not treacherous.²⁴ Although figuring out exactly what the first two of these customary rules mean is in practice no small problem, there is no difficulty about treachery. It is easy to recognize. A group of soldiers who feign incompetence in order to lure their adversary into danger have engaged in a legitimate ruse. A group of soldiers who feign surrender for the same purpose have committed treachery, because they have invited their opponents to trust in a legal protection that they did not intend to honor. There can be no treachery without law, without norms whose protection is betrayed. There can be no terror without such betrayal.

What, then, of counter-terrorism? What kinds of norms or legal expectations can apply? For the moment I think the answer does not extend much beyond the Geneva common articles, whose provisions apply in all cases of armed conflict—though whether terrorism qualifies even on that score may be denied without absurdity. The modern law of war aims to discriminate between the civil and the military, between belligerents and by-standers, between the use of lethal force and the larger interests of humanity. Its capacity to interpret events and render justice will be sorely tested by new forms of massive social violence designed precisely to blur all such distinctions. It is also generally true that international legal structures fall short when confronted with worst-case scenarios and “unprecedented” events. Law, after all, is a backward-looking enterprise, whose life’s blood, as Justice Holmes famously observed, is not logic, but experience. Where experience is lacking, the law is as likely to add to the confusion as it is to clarify events.

At best, its value as tool for the eradication of a global scourge is untested. The closest historical precedent—the suppression of the slave trade—is not entirely reassuring. Like terrorism, slavery in the nineteenth century was a practice that found few open defenders beyond the narrow

ranks of those directly involved in it. It was declared illegal by the Treaty of Paris in 1815, and outlawed everywhere in Europe, even by states that tacitly supported the overseas trade between Africa and the Americas. Yet the British, who were determined to end the trade, were unable to construct an international legal consensus around the issue, because action against slavery was thought to jeopardize other important interests—national pride and autonomy in the case of small countries like Portugal and Belgium, which profited surreptitiously from the traffic in slaves, freedom of the seas in the case of the United States, whose attitude is today painful to contemplate.

The United States outlawed the slave trade—that is, the importation of slaves from abroad—in 1808, a year after Great Britain did. Yet the two countries were never able to cooperate effectively in policing the high seas against the traders, because the United States feared the encroachment of the British navy upon its maritime rights. As the American Secretary of State John Quincy Adams (an ardent abolitionist) explained to Britain’s ambassador in 1821, the only thing worse than slavery would be “admitting the right of search ... for that would be making slaves of ourselves.”²⁵ In the end the British proceeded on the basis of bi-lateral treaties when they could get them, and if not then by asserting one of the wartime rights of belligerents—the right to search neutral vessels on the high seas—in peacetime; a border-line illegal practice that heightened Britain’s reputation for arrogant unilateralism.²⁶ Slavery and the trade in slaves were proscribed by international law only in 1926, long after the issue had been substantially settled by more forcible means.

If there is a way forward at the moment on the terrorism question, at any rate, it does not seem to lie in any further expansion of the laws of war—already stretched to tatters by the wars of national liberation—and more in the area of human rights law, which was grafted somewhat uneasily onto the laws of war at Nuremberg and Geneva, and which may now save them from complete irrelevance. Human rights law is usually associated with demands for an end to violence—the violence of a state against its own citizens—but that is not its only import. The law of human rights, even in its present, nascent form, has already raised the standards that govern a state’s responsibility for what happens within its own

borders, and may someday evolve to provide a legal basis for intervention against states that are too incompetent or corrupt to suppress terrorists that operate under their aegis. Counter-terrorism, in other words, may become a recognized exception to the non-intervention norm, as humanitarian intervention seems poised to do. Nuremberg deprived individuals of the right to excuse terror by hiding behind the principle of sovereign immunity. The time may come when states can be held to the same standard.

ENDNOTES

¹ Thus, for instance, the Atlantic Charter, concluded in August, 1941, included within its list of objectives “the establishment of a wider and permanent system of general security” based on self-determination, economic freedom, and universal disarmament, a reaffirmation of the League’s core principles, and also tacit recognition such a system had not yet been established. The text of the Charter is available at www.yale.edu/lawweb/avalon/wwii/atlantic.htm.

² Robert Jackson, report to the President released 7 June 1945, in Telford Taylor, *The Anatomy of the Nuremberg Trials* (New York and London: Knopf, 1992), 55.

³ The outstanding example in a long history probably occurred in the early morning of June 21, 1941, when Germany’s Foreign Minister, Joachim von Ribbentrop, presented the Soviet ambassador to Berlin with a formal list of violations committed by the Soviets against the terms of the Hitler-Stalin Pact, thus establishing the “legal” basis for BARBAROSSA.

⁴ The deficiencies of “international law” as a juridical concept received important expositions in John Austin, *The Province of Jurisprudence Determined* (London, 1832, and frequently reprinted); and Hans Kelsen, *The General Theory of Law and State* (Cambridge, MA: Harvard University Press, 1946). Both base themselves upon the foundation laid by Thomas Hobbes, for whom there could be no law in the absence of a “common power” emanating from the sovereign [*Leviathan*, chapter 13]. An alternative (and nowadays more persuasive) view, emphasizing international law’s systemic and social character, may be found in H.L.A. Hart, *The Concept of Law* (Oxford, 1961); John Rawls, *A Theory of Justice* (Cambridge, MA: Belknap, 1971) and *The Law of Peoples* (Cambridge, MA: Harvard University Press, 1999); and Hedley Bull, “The Grotian Conception of International Society,” in Herbert Butterfield and Martin Wight, eds., *Diplomatic Investigations* (London, 1967).

⁵ Covenant of the League of Nations, Article 12, paragraph 1. In contrast to the Charter of the United Nations, the League Covenant does not condemn war per se. It merely declares it to be “a matter of concern to the whole League” [Article 10]. The text of the Covenant may be found at www.yale.edu/lawweb/avalon/leagcov.htm.

⁶ Roosevelt made this statement at a press conference announcing the convening at Dumbarton Oaks of the working group that would produce the draft UN Charter. See Stanley Meisler, *The United Nations: The First Fifty Years* (New York: Atlantic Monthly Press, 1995), 3.

⁷ Charter of the United Nations, Article 2, paragraph 4, at www.un.org/aboutun/charter/.

⁸ See for instance Boutros Boutros-Ghali, "Empowering the United Nations," *Foreign Affairs* 71:5 (1992/93): 89-102; and Brian Urquhart, "For a UN Volunteer Military Force," *New York Review of Books* (24 June 1993).

⁹ Carl von Clausewitz, *On War*, edited and translated by Michael Howard and Peter Paret (Princeton: Princeton University Press, 1976), 357.

¹⁰ The first of many UN statements affirming a right of revolutionary warfare came at the end of 1960, when the General Assembly adopted a resolution recognizing "the right of the Algerian people to self-determination and independence" (General Assembly Resolution XV of 14 December 1960). This was followed shortly afterwards by a general declaration against colonialism that, as Geoffrey Best has noted, "stigmatized as unlawful the normal activities of colonial powers in meeting, as was their wont, armed insurgency by armed suppression." Geoffrey Best, *Humanity in Warfare: The Modern History of the International Law of Armed Conflict* (London: Methuen, 1983), 311.

¹¹ See especially Telford Taylor, *Nuremberg and Vietnam: An American Tragedy* (Chicago: Quadrangle, 1970).

¹² Reprinted in Robert H. Jackson, *The Case Against the Nazi War Criminals* (New York: Knopf, 1946), 7.

¹³ "Closing Address," in Robert H. Jackson, *The Nürnberg Case* (New York: Knopf, 1947), 163.

¹⁴ Charter of the International Military Tribunal. Agreement for the Prosecution and Punishment of the Major War Criminals of the European Axis, 82 U.N.T.S. 280-311 No. 251; available on line at www.yale.edu/lawweb/avalon/imt/proc/imtconst.htm.

¹⁵ "Conspiracy" is incorporated under crimes against peace in the Tribunal's charter, but became a separate count in the indictment, the first. Thus "crimes against peace" became count number two, and so on. No defendant was convicted on the conspiracy charge alone. A summary of the Tribunal's convictions and sentences is in Jackson, *The Nürnberg Case*, xii-xiii.

¹⁶ Jackson, *The Case Against the Nazi War Criminals*, 7. In addition to the bracketed emendations, I have modified the punctuation of this passage by the substitution of semi-colons for a few commas, in order to clarify its meaning. On the quarrels that arose over this very question of punctuation, however, see Bradley F. Smith, *Reaching Judgment at Nuremberg* (New York: Basic Books, 1977), 60.

¹⁷ See George Baer, *One Hundred Years of Sea Power: The United States Navy, 1890-1990* (Stanford: Stanford University Press, 1994), 208.

¹⁸ Charter of the International Military Tribunal, Article 6(c).

¹⁹ "Report of the International Law Commission Covering its Second Session," 5 June - 29 July 1950, Document A/1316. In *Yearbook of the International Law Commission* (New York, 1950), 2: 374-80.

²⁰ The complete Conventions are at www.icrc.org/ihl.nsf/WebCONVART?OpenView. The "common articles" have different numbers in the four conventions. In Convention I they are articles 1, 2, 3, 8, 9, 10, 11, 49, 50, and 52.

²¹ In 1989 the Palestine Liberation Organization communicated to the Swiss government its intention to “adhere to the four Geneva Conventions of 12 August 1949 and the two Protocols additional thereto,” but the Swiss concluded that they were “unable to decide whether this communication can be considered as an instrument of accession” owing to “the uncertainty within the international community as to the existence of a State of Palestine.” See Adam Roberts and Richard Guelff, *Documents of the Laws of War*, third edition (Oxford: Clarendon, 2000), 362.

²² Both Protocols are at www.icrc.org/ihl.nsf/WebCONVART?OpenView. One hundred fifty-five states are parties to Protocol I, one hundred forty-eight to Protocol II, thus roughly three-quarters of the present membership of the UN. The United States is not among them, though it has signed both Protocols, and regards most of their provisions as customary law. Its military doctrine nevertheless diverges from Protocol norms in some respects. Article 52(2) of Protocol I, for instance, asserts that “Attacks shall be limited strictly to . . . objects which by their nature, location, purpose, or use make an effective contribution to military action. . . .” In the United States *Commander’s Handbook on the Law of Naval Operations*, however, the phrase “war-fighting or war-sustaining capability” is substituted for the words “military action.” United States Department of the Navy, Office of the Judge Advocate General, *Annotated Supplement to the Commander’s Handbook on the Law of Naval Operations*, NWP 9 (Rev. A)/FMFM 1-10 (Washington, D.C., October, 1989), section 8.1.1. The *Handbook* adds that this “variation of the definition contained in Additional Protocol I, article 52(2), is not intended to alter its meaning.” Cf. James J. Busuttill, *Naval Weapons Systems and the Contemporary Law of War* (Oxford: Clarendon, 1998), 148.

²³ The “Regulations Respecting the Laws and Customs of War on Land” adopted at the Hague in 1907, and incorporated by reference in the Geneva Conventions, require combatants to “have a fixed distinctive emblem recognizable at a distance.” Protocol I, Section II, Article 44(3) modifies this by allowing a guerrilla or partisan to retain combatant status provided “he carries his arms openly (a) during each military engagement, and (b) during such time as he is visible to the adversary while he is engaged in a military deployment preceding the launching of an attack in which he is to participate.”

²⁴ See Dieter Fleck, ed., *The Handbook of Humanitarian Law in Armed Conflicts* (Oxford: Oxford University Press, 1995), ix.

²⁵ In H. G. Soulsby, *The Right of Search and the Slave Trade in Anglo-American Relations, 1814-1862* (Baltimore, 1933), 18. Cf. the general discussion of Anglo-American maritime relations in Bernard Semmel, *Liberalism and Naval Strategy: Ideology, Interest, and Sea Power during the Pax Britannica* (Boston: Allen & Unwin, 1986), 31-67, 152-71.

²⁶ See Chaim D. Kaufmann and Robert A. Pape, “Explaining Costly International Moral Action: Britain’s Sixty-Year Campaign Against the Atlantic Slave Trade,” *International Organization*, 53 (Autumn 1999): 631-68.

**MILITANT DEMOCRACY, CIVIL DISOBEDIENCE AND
TERROR: POLITICAL VIOLENCE AND THE
WEST GERMAN LEFT DURING
THE “GERMAN AUTUMN,” 1977**

Karrin Hanshew

The West German debate on terrorism began with the onset of left-wing terrorism inside the borders of West Germany in the early 1970s and reached its climax in the so-called “German Autumn” of 1977. Though German pop culture has made much in recent years of the left-wing terrorism of 1970s—with a spate of hit movies and a fashion glibly called “Prada-Meinhof” in reference to leading terrorist Ulrike Meinhof—the topic remains little examined for its far-reaching significance in the trajectory of West German (and thus present-day German) politics and society. What scholarship does exist is largely caught in furthering the debates of that time, dominated as it is by the autobiographical accounts and personal agendas of its authors. The not so distant uproar around German Foreign Minister Joschka Fischer’s militant activism in the 1970s has only served to demonstrate the degree to which the significance of left-wing terrorism for German political culture and society has yet to be understood and underscores the need to attempt such an understanding.

Any such endeavor must begin by placing the public debate on state and civil violence and what is popularly known as the “German Autumn” into its historical context. Rather than focus on left-wing terrorism in West Germany, however, this essay examines the reactions of the Left—both the parliamentary and extra-parliamentary—to that terrorism. The constitutional principles of “militant democracy” (*wehrhafte Demokratie*) and the right to “civil disobedience” (*Widerstandsrecht*) laid down by the framers of the West German Basic Law provided the locus for two simultaneous discourses on terrorism. Ultimately deliberating the line between legitimate and illegitimate violence in a democratic society, this debate was carried out with heightened urgency as the experience of violence increased markedly in the year 1977. An evaluation of the answers arrived at over the course of the debate reveals that the West German experience of left-wing terrorism altered earlier relationships to and understandings of legitimate state and social violence. This shift in

the West German political public's relationship to violence at the end of the 1970s helped to fundamentally recast the self-understanding of society and politics in the Federal Republic of Germany (FRG).

Left-wing terrorism first announced itself in West Germany in 1968 with the burning of a Frankfurt department store. Over the next decade the FRG was torn asunder by terrorist attacks epitomized by the actions of the Red Army Faction (RAF), a group of extremists made famous by their leaders and ideologues, Ulrike Meinhof and Andreas Baader. Inspired by the examples of Mao Tse-tung, Che Guevara, and Carlos Marighella, the terrorists declared themselves an "urban guerilla movement" and sought both to raise revolutionary consciousness and to demonstrate the vulnerability of the current West German state through illegal acts. In 1977 the terrorists unleashed a new and heightened wave of violence on the country that ended in the events of the "German Autumn." Opening with the RAF kidnapping of prominent industrialist and former SS officer Hanns-Martin Schleyer, the events of that autumn closed with the rescue of the hijacked airliner, "Landshut," by West German paramilitary forces and the suspicious deaths of the three leading RAF terrorists in their prison cells. The terror that gripped the FRG during the "German Autumn" evoked for many the specter of Weimar Germany and old doubts about democracy's ability to defend itself. At the same time, the law-and-order tactics mobilized by the state awoke fears about Germany's inability to break free from its authoritarian and fascist past. These anxieties split largely along generational lines—the older generation moving with alarm to avert a repetition of Weimar, while their children railed loudly against perceived continuities with National Socialism. The entwining dialogues revealed a population besieged as much by its own past as by terrorism.

The debate on terrorism was carried out both within established political institutions and amidst the tangled and diverse networks of the former extra-parliamentary opposition (*Ausserparlamentarische Opposition*, or APO). In their attempts to negotiate both the specters of the Germans' totalitarian past and the escalating fears of left-wing terrorism, the governing Social Democratic/Liberal (SPD/FDP) coalition, the Opposition formed by the Christian Democrats (CDU/CSU), and the radical Left probed the very nature of West German democracy by questioning just how far democracy could go in defending itself and what exactly differentiated undemocratic terrorists from democratic challengers to the state. At the forefront of discussion were

the lessons of Weimar and the West German constitution's rejection of political neutrality in favor of a "militant democracy" intent on protecting the political system from its internal enemies, including those who sought legally to turn the "arsenal of democracy against itself."¹ Rivaling Weimar and the fears of a weak democratic state in importance were the memories of National Socialism and fears of an overly obedient society, uneducated in the ways of democracy. "Militant democracy" was thus joined by the West German constitutional guarantee of the citizenry's right to civil disobedience in ultimately defining the terms of the debate on violence during the "German Autumn."

In choosing the "hot" autumn days of 1977 as the fulcrum of this essay, I do not posit that the events of the terrorist crises produced momentous changes in social and political relations as if in a vacuum or without seams—blind to the decades of debate that preceded the "German Autumn" or to the numerous events that followed upon its heels. I do contend, however, that the "German Autumn" is a momentous event because conceptions and categories of political culture and action were open to manipulation, debate, and reinterpretation for a historically specific period of time due to the great insecurity in the daily lives of large segments of the West German population. As William H. Sewell, Jr. has argued, such general insecurity can enable "acts of collective creativity" and the upheaval wrought by the "German Autumn" served in this fashion to open up categories of state and civil violence to creative interrogation and new articulation.² Concern along the entire West German political spectrum regarding legitimate versus illegitimate violence came to a head in the experience of the terrorist acts and governmental responses of 1977, leaving scholars, activists, and parliamentarians to find new answers to old questions on democracy. In this way the rapid series of ruptures that make up the "German Autumn" broke through a structural framework of social and political relations that had otherwise been maintained. Though this essay confines itself to the changing relationship of the West German Left to violence, this historical "break" cannot be understood without the experience of the West German conservatives. Their negotiation of past and present terror and the subsequent shift in the possible discourses and agendas open to them will necessarily be taken up elsewhere.

**THE WEST GERMAN PARLIAMENTARY LEFT
AND STATE VIOLENCE**

When the SPD took power at the end of the 1960s, Willy Brandt's call for West Germans to "dare more democracy" spoke to the parliamentary left's sympathetic position toward the student movement and its stance against conservative calls for strong state action in the face of oppositional forces. Due to the Basic Law's lack of provisos on the nature or implementation of "militant democracy," members of parliament were repeatedly embroiled from the early 1950s on in debate regarding questions of when non-neutral, state intervention was justified and how such action might manifest itself and still maintain its own democratic integrity. Though the SPD did eventually help enact a version of the Emergency Laws in 1968, the preceding decade of internal debate and their rejection of earlier legislative proposals by the CDU reveal the party's consistent unease and disagreement on empowering the state against its own citizenry – seeing the state as an equal, if not more likely threat to democracy.³ The SPD rejected proposals by the CDU that placed power almost exclusively in executive hands, insisting on the inviolable role of parliament and the constitutional courts even at the height of crisis. The party also insured that the final version of the law strictly demarcated which civil rights could be limited by the state and the length of time in which it could continue do so.⁴ The debate over the Emergency Laws was not the only evidence of the lack of SPD support in the establishment of a strong state. In a similar desire to limit state power and the ways in which "militant democracy" could be mobilized, the SPD staunchly opposed CDU/CSU proposals for German rearmament—proposals frequently worded in terms of defending West German democracy against the communism of the East as well as against future, unseen enemies.⁵ Thus a rejection of coercive force joined the other limitations to state power the SPD believed essential for the protection of a democratic society.

As the 1970s unfolded with ever-escalating levels of violence, however, the SPD found itself more and more pressed to bring "law and order" back to the FRG. The terrorist fiasco of the 1972 Munich Olympics, in which the West Germans' inability to deal effectively with the crisis

ended in death for hostages and terrorists alike, was a humiliating blow for the SPD/FDP-led government and crucial in prompting the government's declaration of "war on terrorism."⁶ The path pursued by the coalition government throughout the 1970s in its desire to combat terrorism was not one of new, anti-terrorism legislation and harsher criminal punishment (the conservatives' answer), however, nor did it justify itself overtly in the name of "militant democracy." Maintaining its earlier convictions about what constituted the democratic use of state power, the SPD reached for a new rubric of "internal security" (*innere Sicherheit*) that instead sought to defend the state's monopoly on the use of force through the creation of new intelligence technologies and the full utilization of the existing legal and constitutional order. The SPD maintained this approach to state intervention up until the critical days of the "German Autumn" when their fears of irretrievably losing the state's monopoly on violence trumped historical fears of strong state power and allowed them to reach for the weapons of "militant democracy," namely legislative changes and coercive force.

In the name of internal security, the SPD-led government increased funds and personnel for the Federal Criminal Office (*Bundeskriminalamt* or BKA) and the Federal Border Control (*Bundesgrenzschutz* or BGS), the organ with explicit responsibility for anti-terrorism countermeasures. The expansion of the BKA and BSG favored the updating and expansion of information and communications used by the West German police over an attention to brute strength. Newly allotted funds were used toward creating a uniform computer intelligence system. The government argued that only the improvement of such methods would increase police chances of apprehending criminals, early detection, and perhaps even help police to anticipate terrorist actions. Unsaid was that an emphasis on police technologies also allowed the Social Democrats to avoid overt repression, a centralized executive power, and the creation of new legislation and thus avoid major internal party conflict over the issue of strong state power.

Despite their evident enthusiasm for and faith in the use of information technologies, the SPD-led government did no more than discuss plans to centralize authority out of a telling hesitation to impinge on the rights of the individual states—all proposals dying on their own party floor. When

the year 1977 opened, therefore, the BKA lacked the overarching jurisdiction of similar agencies like the U.S. Federal Bureau of Investigation. Both the BKA and the BGS relied on the state level for implementation—requiring each state to invite the federal agencies into any criminal or terrorist investigation before either was free to act.⁷ This refusal by the SPD to overstep its own set of boundaries concerning the use of state force was further underscored by the government’s continuous hesitation to employ the GSG-9 (*Grenzschutzgruppen 9*), an elite anti-terrorism commando unit created during the expansion of the BGS beginning in 1972. The image of West Germans in uniform, too fraught with associations from the Third Reich, caused the SPD-led government to keep the profile of the anti-terrorist task force low. Thus, despite the creation of the GSG-9 at the government’s own behest, it never employed the men in any function beyond the position of glorified bodyguards until late in the “German Autumn.”

This general consensus on where the line between democratic and undemocratic uses of state force lay began to break down in the wake of Federal Attorney General Siegfried Buback’s murder in April 1977. Only then did leaders of both the SPD and the FDP begin to show signs of support for CDU proposals to monitor all oral communications between imprisoned terrorists and their defending attorneys—a limitation of an individual’s constitutional rights that the coalition government had previously killed when it came to the parliament floor in 1974 and again in 1976.⁸ Helmut Schmidt himself openly acknowledged his support for monitoring verbal exchanges of suspected and convicted terrorists before parliament during his governmental address on April 20.⁹ Despite the dissolving consensus, however, the minutes of the security council and repeated correspondence between the federal ministers and party whips show that the government remained unwilling (or unable due to the lack of party backing) to cross the line established in the immediate postwar debates up to the very end of August 1977.¹⁰

With the kidnapping of Hanns-Martin Schleyer on September 5, consensus was reestablished within the SPD by the party rank-and-file’s decisive move toward a call for strong state action. In a matter of days the party’s traditional deep distrust of state power retreated to the background as doubts about democracy’s ability to defend itself rose to

the fore amidst a rhetoric pregnant with the terrors of Weimar, when law was lost to the streets under other SPD-led governments and (in their minds) a similar political extremism heralded in the Third Reich.¹¹ One of the government's first actions was the release of massive funds for the final creation of a centralized police information system—an act that not only threatened state rights, but also the rights of each West German citizen with its compilation of data on individuals other than those convicted of a crime. Nowhere was a new willingness on the part of the SPD to restrict civil liberties in the name of “militant democracy” more evident, however, than in their overwhelming support of the “contact ban” (*Kontaktsperregesetz*). With unparalleled conviction and efficiency, the *Bundestag* took only three days to lay the finished law on the table for the final signature of Federal President Walter Scheel. The new law empowered the Federal Minister of Justice and his colleagues at the state level to suppress the prisoners' contact with one another and with the entire outside world if there was a strong belief that the terrorists posed a “present danger to life, limb, or liberty.” The isolation of the prisoner went so far as to ban the visitation rights of defending attorneys and all written communications.¹² Though the brief legislative debate was not wholly without internal dissent, when the SPD party leaders called for full solidarity behind the *Kontaktsperregesetz* at the end of September, the party demonstrated an overwhelming consensus in rejecting their earlier reluctance to restrict civil rights and make legislative changes during a time of crisis.¹³

Whereas the CDU/CSU was the party of the status quo, the SPD had come to power on a ticket promising the liberalization of government and the socialization of society. How, then, could the Social Democrats justify the expansion of government rights at the expense of the citizen? Representing his party before parliament, Dr. Hubert Weber (SPD) laid out the Social Democrats' reasons for backing the *Kontaktsperregesetz*. The state's foremost duty to protection of life, as established in the Basic Law, provided the backbone of his defense. With proof of the communication between imprisoned terrorists and those on the outside and the knowledge that such communication endangered the health and freedom of people and further limited the space within which the state was free to act, Weber argued there was no alternative but to undermine

all such possible contact between terrorists and their would-be conspirators.¹⁴ Vying in importance with this line of reasoning for SPD support of the law was the belief that no efficient or working legislative regulation of state intervention existed. Weber was joined by Federal Minister of Justice Hans-Jochen Vogel in arguing that the existing Emergency Laws lacked any uniform agreement on how and when they could be called into use—an untenable situation that the new legislation, through its creation of clearly delineated and fixed procedures for serious acts of state intervention, would overcome. Moreover, Vogel declared that in addition to establishing a working and unified judicial control the *Kontaktsperregesetz* guaranteed that all such measures of criminal law jurisdiction and criminal court proceedings would be uniformly executed amongst the individual states—demonstrating the SPD’s ongoing desire to curb the inefficiencies and interference of the federalist system in matters of law.¹⁵

While both these lines of argument were consistent with the SPD’s prior use of the law to define the realm of state action, the conclusions reached demonstrated a new willingness on the part of the party to empower the state over the lives of its citizens. In large part responsible for the imprecise and vague nature of the Emergency Laws, the SPD now moved to provide the state with what it had earlier denied it, namely the right to restrict civil liberties and to differentiate citizens before the law.¹⁶ And, most importantly, by agreeing to pass new legislation the SPD retreated from its earlier adamancy that no major alterations to the legal framework of the state should be allowed during times of crisis—a position that was born directly out of the experience of Weimar and the passage of the Emergency Decrees that called the republic’s ability to function into question and ultimately brought about its destruction. Thus the *Kontaktsperregesetz* represented a decisive move within the SPD toward a new willingness to empower the state—not only against individual citizens but also against the individual states—via uniform criminal codes.

It is in the utilization of strong executive power and the deployment of armed force, however, that the changes in the SPD’s position on state violence were arguably most dramatic. Immediately following the kidnapping of Hanns-Martin Schleyer, Helmut Schmidt called a meeting

of the crisis management team (*Krisenstab*), first conceived of during the Stockholm hostage crisis and consisting of his ministerial cabinet and the House Speaker of each parliamentary party. Unlike in 1975, when the committee served mainly to open up communication between the parties and provide Schmidt with intra-party backing, the newest manifestation of the crisis management team ultimately concentrated decision-making powers in the hands of the executive. Arguing that each party was represented on the committee, the need to consult parliament in matters of national importance was effectively curtailed. For the length of the “German Autumn” the crisis management team was *the* ruling body, responsible for all negotiations with the terrorists and the enactment of security measures such as the ban on all news related to the terrorist situation (commonly referred to as the *Nachrichtensperre*). This move by the government to facilitate expedient decision-making in situations where time was considered crucial *did* generate accusations of unconstitutional behavior and abuse of power from within the party ranks of the SPD. Confident, however, that if the parliament and members of their party had access to the security information they possessed there would be no question as to whether their actions were warranted, the SPD leadership requested their party’s trust and promised to fully divulge suppressed information and minutes of committee meetings once the crisis had ended.¹⁷ While it is true that the party’s leaders avoided centralizing power in the hands of “one strong man,” their readiness to sacrifice the rights of parliament and public sphere to the benefit of the functioning executive body, when coupled with the lack of dissent from the rank-and-file, confirmed that the SPD had come to abandon much of its previous position on state force.

This new willingness on the part of the SPD to circumscribe checks on executive power ultimately allowed the last of their earlier convictions, namely their aversion to the display of coercive state force, to be overcome.¹⁸ Only with the decision-making powers invested in the crisis management team, was the use of armed force finally called into play against terrorism. On October 13, four Palestinians hijacked the Lufthansa airliner “Landshut” on its return flight from Mallorca, Spain in a show of solidarity for the RAF and its demands. The stakes in the struggle against terrorist demands changed overnight for the German government. The

management team was no longer risking the life of just one man; added to Schleyer in the consideration of the possible repercussions of refusing the terrorists, were the lives of eighty-six tourists plus their flight crew.¹⁹ Within mere hours of the hijacking, the West German government overcame its earlier hesitations regarding the use of coercive state force—present even in the wake of Schleyer’s kidnapping—and mobilized the anti-terrorist task force, the GSG-9, in a rescue attempt of the aircraft.²⁰ With the unanimous support of the crisis management team and the agreement of the Somali government, the GSG-9 stormed the “Landshut” while the hijacked plane waited to refuel in Mogadishu. The executed mission lasted all of five minutes and ended in the death of three out of the four terrorists, while all 86 hostages escaped harm. The resounding success of the mission sealed the SPD’s willingness to place armed force among the legitimate powers of the state in its defense of democracy.

The readiness of the SPD to overstep the boundaries to which they previously adhered regarding strong state power—namely the sacrosanct nature of constitutional and federalist rights and the use of strong executive power and armed force—was demonstrated by the full ascendancy of Chancellor Helmut Schmidt and the party’s conservative wing. Considered with disfavor by many members of the SPD when he replaced Willy Brandt as chancellor in 1974, Schmidt ended 1977 roundly praised for his leadership skills under pressure and his ability to circumvent the worst of party politics. Moreover, the very fact that the SPD-chancellor could appear on the cover of newspapers and magazines standing solitary and strong—not only in the suit and tie of his office, but also in the uniform of the West German border control—decisively demonstrated the strength of the conservative voice over and against the younger, more liberal wing of the SPD.²¹ This shift in the balance of internal party politics, intimately connected to the leadership’s successful resolution of the terrorist crisis and thus the party’s changed position on the legitimate use of state force, signaled the Social Democrats general tilt right. The events of the “German Autumn” (coupled with the criminalization of the ecological movement and a general freeze on social reform) caused many members who had joined the SPD in the late 1960s on a wave of reformist optimism to finally retract their support in disillusionment and transfer their political energies elsewhere. This fracturing of the SPD did not

only seal the party's future rightward turn: when considered alongside a simultaneous reorientation of the radical Left, it also spelled a dramatic realignment of the politics of the Left and West German politics more generally.

THE WEST GERMAN RADICAL LEFT AND CIVIL VIOLENCE

When the West German student movement opened the previously closed discussion on violence in the mid-1960s, it was largely in terms of *Widerstand*, or civil disobedience. Like “militant democracy,” the concept of civil disobedience conjured up both memories of past failures and public professions to stop their repetition. A perception of the historic failure of German citizens to revolt in the face of an authoritarian regime—with the Third Reich as only the latest, if most heinous, example—cast civil disobedience as a moral duty in the minds of the younger generation. Citizens confronted with a government they believed had lost all claims to democratic legitimacy had the moral obligation to defy the state rather than maintain an oppressive system. A sincere belief in a “crisis of democracy”—prompted in large part by the creation of the Emergency Laws—thus encouraged ever-larger numbers of West German students and intellectuals to debate the present situation and potential manifestations of legitimate civil disobedience. Central to the anti-authoritarian movement and the students’ understanding of legitimate violence was the work of Frankfurt School Philosopher Herbert Marcuse. With the American civil rights movement and the struggle for emancipation throughout the Third World foremost in mind, Marcuse argued that oppressed and subjugated minorities had a natural right to civil disobedience—specifically, a natural right to *Widerstand*—using illegal means as long the laws remained in the controlling hand of the oppressors and were thus themselves an instrument of oppression.²² Whether correctly or incorrectly interpreted, Marcuse’s justification of civil disobedience informed the student movement’s understanding of itself as an emancipatory impulse—with all the moral rights to *Widerstand* afforded those groups in the Third World.

The student movement's discussion on democratic civil violence received inspiration not only on the level of theory, but also from the students' increasing experience of violence on the street. An early example was the 1966 student demonstration outside the Berlin Amerika Haus in which students threw eggs and tomatoes and were immediately denounced by the media and officials as "violent left-wing fanatics." The heavy-handed response by the police caused Rudi Dutschke, a leader of the student movement, to respond that such "caricatures of violence" as practiced by the students in Berlin provoked the state "to abandon its democratic and constitutional forms and undisguisedly 'get down to business,' namely to do violence to people" and thus contributed "more to political enlightenment than most political podium discussions."²³ This and similar statements conceived of civil disobedience both as a way of revealing systemic violence and as a purely defensive action (*Gegengewalt*) in reaction to initial state force, and it formed the cornerstone of extra-parliamentary debate on *Widerstand* for the next decade. Oskar Negt, an assistant to Jürgen Habermas in the late 1960s, describes the discourse around civil violence as one centered on establishing the line between reactionary and progressive violence, with America's military actions in Vietnam and the West German use of police force in putting down protest demonstrations as vivid examples of reactionary violence against which progressive acts were judged.²⁴ Of particular note was the discussion's complete lack of questioning *if* civil violence was legitimate. The question, instead, was quite firmly one of *when*.

The APO movement was unable to sustain itself and fell apart at the beginning of the 1970s with no heir apparent to the innumerable left-wing splinter groups—the so-called *K-Gruppen*, *Spontis*, *undogmatische Linke*, and various groups formed around the universities. While the majority of these (former) participants in the extra-parliamentary Left's debate on violence were content to leave the discussion of civil violence on the level of theory, a small number of them were inspired to take up the fight as urban guerillas within the borders of the FRG. The reaction of the radical left to the terrorism of the 1970s was in no way uniform. The RAF's attack on the established system for its failure to rid itself of the vestiges of fascism, for its hierarchical-authoritarian structure, and

for the imperialist abuses of consumer society was clearly rooted in the principles and revolutionary impulse of the student movement, however, and thus won them sympathy from the vast majority of the radical Left—regardless of whether individuals believed the terrorists’ actions to be the correct expression or application of political violence. The line of argumentation used by the defense in the terrorists’ trial at Stammheim explicitly followed the political logic current within the radical Left. The defendants’ attorneys argued that their clients’ actions were carried out in direct response to the atrocities perpetrated by Western powers in Vietnam and in third-world countries more generally. If one believed in every person’s moral obligation to resist undemocratic and repressive regimes, the defense argued, the true crime would have been *not* to fight the state and political order that condoned what the West German radical Left commonly referred to as “genocide” (*Völkermord*) in Indochina.²⁵ The radical Left’s conviction in the legitimacy of counter-violence (*Gegengewalt*) and the moral obligation of citizens to resist repressive state measures joined their belief in the unproven nature of West German democracy to evince feelings of loyalty toward the terrorists above and against the state.

Where the sympathy of many members of the radical Left could only be sustained so long by arguments of moral justice, the struggle to define the terrorists as political prisoners and thus subject to the conditions agreed upon by the Human Rights Accords rather than to the criminal law of the prosecuting judicial system, proved to hold the loyalties of the vast majority. Indeed, the entire spectrum of the radical Left helped forge a campaign against the perceived torture of imprisoned terrorists and bitterly criticized the state’s handling of each hunger and/or thirst strike in a demonstration of solidarity with the terrorists against the new (prison) technologies of the state.²⁶ Even those who were openly critical of the terrorists’ use of violence felt that they could not turn their back on the prisoners, caught in the inhumane jaws of the state.²⁷ Further defining the Left’s relationship to terrorism was the belief that any division amongst the Left would bring the destruction of progressive gains and the inevitable victory of the defendants of capitalism. Wolf Biermann, for example, insisted that the radical Left could afford nothing less than solidarity with the terrorists, arguing that the criminalizing, political isolation, and

finally liquidation of the most militant part of revolutionary movements was a traditional part of the bourgeois program to destroy the Left as a whole.²⁸ Thus, whether from the point of *Gegengewalt*, humane prison conditions, or the self-preservation of the Left, the state was the enemy and the one thing against which a fractured, extra-parliamentary Left could define itself.

Though the radical Left certainly debated the subject of violence throughout the 1970s, it was the murder of Siegfried Buback and the notorious “Buback-Nachruf” that brought their relationship to the terrorists and the legitimacy of political violence against human life prominently to the forefront of discussion. What is frequently referred to as the “Mescalero Affair” was set in motion by an obituary for Siegfried Buback, the federal prosecutor-general assigned to the Baader-Meinhof case who was murdered by the RAF in April 1977 in a retaliatory measure against the “guilty” verdict passed down by the court. The obituary, printed in the student-run *Göttinger Nachrichten* under the pseudonym “Mescalero,” admitted to a “clandestine joy” upon first hearing of Buback’s death. Read by the mainstream political public as proof of the sympathy that flourished in West German universities for left-wing terrorism, the obituary was immediately attacked and its further publication banned by the government. This censorship led to police raids on student and alternative newspaper presses suspected of publishing the “Mescalero” article and/or of harboring the identity of its author. Ironically, had the government not attacked the “Buback-Nachruf” with such ferocity, the RAF most surely would have had to.²⁹ For, if read in its entirety and not just focusing on its offensive rhetoric, the obituary was in fact an explicit statement *against* the right of the terrorists to proclaim life or death sentences in their fight against the state. The obituary describes how the author’s initial reaction to the murder of Buback was quickly overshadowed by a deep questioning of his willingness to condone and use violence. Who, he asked, had the right to make such life and death decisions or, in justifying these acts, to decide who was more guilty than who? He did not, and it was difficult, the author stated, to believe that an isolated group like the terrorists, cut-off in many ways from reality, did either.³⁰ Though largely lost on the majority of West Germans with their refusal to engage the text beyond its initial offense, the “Buback-

Nachruf” did open up discussion among the radical Left on the subject of legitimate violence. Indeed, according to Erich Fried, a prominent poet and frequent social commentator, the “Mescalero” text was “one of the most significant documents of the present-day German Left against political murder...”³¹

While the vast majority of the radical Left fully supported statements against the legitimacy of political violence against humans, statements about the radical Left’s need to distance itself more strongly from all acts of violence and terrorist sympathies did not find wide support and instead unleashed a ferocious debate about the solidarity of the Left. This debate was set off in large part by the public statement made by forty-three professors and secondary school teachers claiming the freedom to publish the state-banned “Buback-Nachruf.” The statement’s supporters, drawn together from otherwise divergent social and political positions, united behind “Mescalero” not only to challenge the (in their minds) excessively repressive state actions taken to combat terrorism, but also out of the desire to open up a discussion on violence—one they felt had been denied the public and the radical Left by the complete intolerance of the government and conservatives for any critical debate on the subject.³² Not all members of the radical Left, however, supported the actions of the forty-three professors and teachers. Instead, many voluntarily made public statements disavowing all acts of terror and distancing themselves from the language and cynicism of the “Buback-Nachruf.”³³ The pages of the alternative press reveal the purely black-and-white terms with which an individual’s decision to support either position was interpreted: the former demonstrated support for the Left (and was thus against the state), while the latter demonstrated support for the state (and thus was seen as an attack on the Left). The result was that too frequently statements against political murder as a legitimate form of *Widerstand* were overshadowed by rabid attacks on any member who was understood to be “distancing” himself from his leftist comrades. In response to this situation, Detlev Claussen attacked not only the “Mescalero” article, but also what he considered to be the false dichotomy of solidarity and distance that encouraged the Left to stand behind such an example of “political stupidity in the first degree:”

Solidarity at any price, only to demonstrate one's own radicalness, fetishizes a unity that we all know is not to be had. What unifies us cannot be the opposition alone... Whoever desires to change society may not assume the solidarity of the oppressed is a given, but instead he must win it through actions that appear intelligible and legitimate to the oppressed. Neither remote leftists nor the bourgeois public decide such things for themselves.³⁴

Arguing that neither the “Buback-Nachruf” nor terrorist actions—nor the defense by the Left of either one—did anything for the oppressed, but instead only enabled the state, Claussen and other like-minded members of the radical Left denied the Left its uncritical position of solidarity with the terrorists.

While the “Mescalero Affair” demonstrated that a consensus on both the legitimacy of civil violence against human life and the radical Left's relationship to terrorism had begun to break down among the radical Left by April 1977, the scandal had little effect on the widespread understanding of violence against property as a legitimate means of civil disobedience. When this discussion was finally taken up for serious debate among the radical Left, it was in large part due to circles around the ecological movement and the growing political isolation of the Left. The explosive and extremely violent confrontation in November 1976 between anti-atomic energy demonstrators and police over the proposed nuclear energy plant in Brokdorf witnessed the beginning of heightened state and civil violence as police moved to prevent demonstrators' occupation of building sights with water cannons, tear gas, and barbed wire, and demonstrators fought back with an increasing belief that the time to “do or die [by nuclear death]” had come.³⁵ The increase in violence, when coupled with the ecological movement's deep roots in the APO-movement and its radical splinter groups, caused many in the government and mainstream public to associate anti-nuclear energy demonstrators with terrorism—not only in terms of their politics, but also in their threat to the “free democratic order” of the FRG. The movement's political isolation—after previous success at winning the West German population's sympathy—and the experience of the demonstrations' new

level of violence caused growing dissent between members of the radical Left on the subject of civil violence—specifically over what form *Widerstand* should and should not take. New doubts surfaced over the viability of a distinction between violence against property and violence against people as the demonstrations evidenced a strong slippage between the two.³⁶ Though few were yet willing to follow the lead of the ecological movement’s pacifist wing, the debate on *Widerstand* dovetailed with other discussions on violence taking place within the radical Left at the time to unveil an increasing possibility for the rejection of violence in general.

One of the most prominent examples of this new space was the speech given by the at that time unidentified, Frankfurter *Sponti*, Joschka Fischer, at a congress on “State and Repression.” Explicitly referring to the street riots that broke out in response to the announcement of Ulrike Meinhof’s death on May 8, 1976, Fischer expressed genuine horror over the direction the radical Left might find itself taking if they followed the precise logic of violence and anti-violence (*Gewalt und Gegengewalt*). With the recent demonstrations, he argued, the movement had reached the boundaries of militant action and, in so doing, threatened to make the same mistakes as the urban guerillas, namely to lose sight of the connection between their militarism and the movement’s political isolation:

The more isolated we became politically, the more militaristic our *Widerstand* became, thus the easier we became to isolate and the easier it was for the cops to change our label from “political rockers” to “terrorists,” adding charges of criminal organization and murder to those of disturbing the peace.

Fischer did not stop there but continued to criticize the terrorists for completely cutting off notions of *Widerstand* from the need to create a new way of living. Despite his critique of terrorism, the *Sponti* showed himself unwilling or unable to criticize the radical Left’s solidarity with the terrorists by declaring that any distancing of the Left from the terrorists would ultimately require a distancing from themselves. Instead, Fischer called for solidarity with their comrades in the underground, a solidarity that, by its very nature, demanded that the terrorists put a stop to their

“death trip” and their “armed self-isolation,” put aside their bombs and their stones, and instead return to a *Widerstand* that promised a new life. This speech, though not what was expected by the majority of congress attendees intent on debating how best to fight against the “occupational ban” (*Berufsverbote*), did not fall on deaf ears. Its multiple reprintings and the publication of later articles written by Fischer confirmed that his critique of the terrorists and the use of political violence had indeed struck a chord among the radical Left.³⁷

While events of 1976/77 evidenced a growing discussion of the radical Left’s position toward violence, it was not until the “German Autumn” that these fissures in consensus widened into a decisive break with its earlier beliefs of legitimate civil violence. The ban on news initiated by the crisis management team and the CDU-led hunt for terrorist “sympathizers” that aimed to get at and cut off the roots of left-wing terrorism, heightened the radical Left’s feelings of isolation and inability to affect political change. It was in this atmosphere of extreme isolation that large numbers of the Left decisively moved to distance themselves from terrorism and violence more generally and to open up avenues of social critique that did not hinge on earlier conceptions of armed *Widerstand*. To cite but one example, Rudi Dutschke, Herbert Marcuse, and Heinrich Böll—all leading figures for the splintered remains of the extra-parliamentary movement—made an unprecedented move by publishing explicit statements in the popular press that distanced themselves from the terrorists and rejected their actions as an illegitimate form of oppositional politics.³⁸ Dutschke specifically stressed the necessary democratic limits on civil disobedience in his essay entitled, “The Critique of Terrorism Must Become Clearer.” Underscoring that he, unlike the “desperate and self-appointed desperados,” had carried out his own “struggle against the representatives of the ruling classes” within the possibilities created by the extra-parliamentary and parliamentary opposition, Dutschke argued that the use of individual terror demonstrated the terrorists’ abandonment of socialism’s goals and could only culminate in individual despotism. Similarly, Marcuse emphasized that *Widerstand*’s end goal, namely the liberated individual, must necessarily appear in the means to achieve this goal. Moreover, he limited civil disobedience to open struggle, rejecting the conspiracy and sneak

attacks against individual people—actions “which come from isolated individuals and small isolated groups” rather than revolutionary movements.

For many of the radical left, full disillusionment in political violence and their earlier “revolutionary” course only came in the final chapters of the “German Autumn.” The suspicious deaths of Ensslin, Baader, and Raspe followed two days later by the discovery of Hanns-Martin Schleyer’s dead body in the trunk of a green Audi—shot in the head by his capturers at close range—caught the majority between fears of a West German state that had displayed an unprecedented willingness to mobilize against its own citizens and the moral corruptness of its own earlier position. The sense of loss and powerlessness that beset the radical Left in the wake of the autumn crises was caught on film in the co-authored and co-directed 1977/78 New German Cinema production, *Deutschland im Herbst*.³⁹ The scenes produced by Rainer Werner Fassbinder, in particular, present an autobiographical sketch that stands for the radical Left’s common experience of paranoia, despair, and utter sense of directionlessness.

Crucial is the film’s decisive stance against political violence in an overarching critique that places both the actions of the state and the terrorists outside the democratic pale. The state’s restriction of civil liberties is brought home by the fear and paranoia with which Fassbinder refuses to house his lover’s acquaintance. Underscored by the backdrop of police sirens and news reports was the fear that the “hunt for sympathizers” had been unleashed on members of the left, even though they were open to police searches and the accusatory eye of the state. This theme is followed up elsewhere in the terrorizing aspects of road barricades set up to screen the population for suspected terrorists. The joking banter of one guard with the occupants of a stopped car points to the state’s potential for small and random acts of cruelty. The directors do not only point their lens at the state, however, but also turn it on themselves. The choppy footage of turn-of-the-century communist organizers in the workplace interspersed with present-day filmmakers’ attempts to recreate the flag-waving, flag-burning, and bloody-fisted revolution implicate their own earlier political mobilization in left radical movements. Furthermore, the shots of domestic violence between

Fassbinder and his lover—whom he in turn beats, throws out, and then clings to in desperation—suggest that even members of the radical Left are not immune to the violent and authoritarian relations for which they attack the existing system. These two sides of critique are brought together in the opening and closing refrain to the film: “There comes a point when the horror is such that it is no longer a matter of who began it: it must simply stop.” Manifested in this black-and-white statement is the artists’ sense that politics had to evolve beyond its preoccupation with casting blame—the radical Left with its categories of *Gewalt* and *Gegengewalt* and the state with its insistence on crime and punishment—and find a new, nonviolent direction.

Beyond such disavowals, the new direction of the radical Left were exemplified in more constructive attempts to re-establish a voice of social critique—a voice rendered nearly silent due to its associations with terrorism. During the annual October book fair in Frankfurt-am-Main, several left-wing intellectuals and activists came together to found the daily newspaper, the *Tageszeitung*. A self-consciously oppositional forum—the editors stated their intent to create a *Gegenöffentlichkeit* (an alternative, or “opposing” public sphere)—the *taz* is an early example of the way in which the radical left shifted its energies away from “revolution” in any immediate sense and sought to engage the national political public within the existing system.⁴⁰ At the same time an oppositional newspaper was taking shape, earlier discussions and rumblings largely from within the ecological movement about the creation of a new national political party—an “Alternative List”—gained a powerful momentum. The potential for making a move toward parliament had increased markedly with the election of Petra Kelly and Roland Voigt—both long-time advocates of nonviolent political action and the creation of change from within the dominant institutions—to the ruling board of the Federal Association of Citizens’ Initiatives for Environmental Protection (*Bundesverband Bürgerinitiative Umweltschutz*, BBU) earlier that year. The radical Left’s experience of isolation and new desire to engage the national public provided the necessary support for such an initiative. With the “German Autumn” and the radical Left’s move to engage the national public, the Green Party’s image of a two-legged political movement was born: one “kicking leg” in parliament and local

government and a second providing stability by being firmly anchored in the movement.⁴¹

Evidence that these institutional initiatives would find the necessary mass basis is the early November call for the entire family of “*Spontis*, *Undogmatic [Marxists]*, and *Stadtindianer*” to “leave Model Germany behind and travel to the land of ‘Tunix.’” Somewhere between a flight into fancy and a determined effort to “find” the radical left in the midst of its confusion and chaos, the “Tunix” congress held at the Technical University in West Berlin at the end of January 1978 worked off the central premise that violence was not a legitimate means to arriving at “Tunix” and sought new answers as to how one *could* make steps toward the Left’s alternative vision of society.⁴² Though the congress did not result in any concrete answers, its participants’ rejection of violent *Widerstand* and openness to new politics laid the groundwork for their support of the *taz* and the *Alternative Liste/Grünen* in what Petra Kelly referred to as “civil disobedience within dominant institutions.”⁴³

CONCLUSION

What [events] in Bonn revealed—that was also surprising for us—was something very rare: a *peaceful mass*, political in an entirely different way than the Emergency Law demonstrators of 1968. How representative this crowd was is difficult to say, but in any case they did not raise fear in me—me, who otherwise shuns mass events. And by no means was there only mood (*Stimmung*) present, but also voice (*Stimme*).⁴⁴

The terrorist crisis and government actions of the “German Autumn” in no way led to a “final product” or a consensus on what form oppositional politics in West Germany should or could take. The very multiplicity of answers derived from the experience of left-wing terrorism, however, is an indicator for the depth of the transformation in West German social relations and political culture—one that survived even after the terrorist crisis of that autumn was past. It is evident that the days of the terrorist crisis witnessed a significant revision of the postwar Social Democratic

position that state violence, even in its bid to maintain a monopoly on the use of force, had to be carefully limited lest it be turned against the principles of democratic civil society that it was designed to protect. Through their confrontation with terrorism these earlier fears were replaced with an understanding that democracy and a strong state were not incompatible and a new willingness to utilize the coercive powers of state. At the same time, the radical Left renounced its traditional support of political violence—most frequently conceived around notions of popular, armed revolt—by largely embracing the belief that civil violence was not a tenable path to political and social change. Within the context of the student movement’s strong disillusionment and what most, no matter what their sympathies, saw as the political and moral corruptness of terrorism, members of the radical Left confronted their own evolving democratic identity. Their vision of social critique as outside institutionalized politics thus shifted to one of communication, nonviolence, and, eventually, cooperation with mainstream political society.

The West German Left’s ability to negotiate both past and present terror during the “German Autumn” helped recast an already shifting political spectrum and reconfigured the face of West German democracy. The radical Left’s move to re-engage the public sphere implicitly accepted the FRG as a *new* Germany, distinct from that of the authoritarian Germany that in their view had culminated in National Socialism. In a not dissimilar manner, members of the SPD resolved the terror of the past by accepting that a democratic Germany could indeed be strong—that the FRG could use armed force and emergency measures in a fight to maintain its monopoly on force—without losing its democratic integrity. The specter of fascism, though anything but a distant memory, thus no longer defined the West German left’s perceptions of their government or nation nor starkly determined the policies of the FRG after the autumn of 1977 due largely to the changed relations in political violence.

Thus despite conservative predictions to the contrary, the Left met the challenge of terrorism head-on and greatly influenced the course of the Federal Republic as a result. The Social Democrats’ vast expansion of police technologies, their restriction of constitutional rights—those of citizens as well as of the parliament and the individual states—and, finally,

their decision to use coercive force in the fight against terrorism helped promote the shift of values (*Wertewandel*) – the turn of the public climate away from the progressive openings of the Brandt government of 1969-1974 to the conservative politics of the CDU—that so characterized West Germany of the 1980s. This general shift right in political culture, most frequently depicted as a political story of conservative hegemony following the collapse of the center-left, cannot be accurately understood, however, without the inclusion of the radical Left. Their confrontation of terrorism through openly de-legitimizing violence as a means of progressive politics and rejecting uncritical solidarity against the state, was a necessary requisite to the full and voluntary incorporation of the extra-parliamentary Left into West German political society for the first time in the nation’s history. The radical Left’s changed relationship with the West German political public not only manifested itself in the institutions of parliament and the press, but also in the new social movements of the 1980s. Indeed, having received much of their impetus from the debates on terrorism these movements tread a decidedly new path in their opposition to the dominant political and social culture than did those of the late 1960s.⁴⁵ The experience of left-wing terrorism and the successful negotiation of that terror by the entire spectrum of the West German Left thus redrew the previous map of politics and society in the Federal Republic and pointed towards the establishment of a stable civil society unprecedented in West Germany.

ENDNOTES

¹ Two German émigrés of the 1930s, Karl Löwenstein and Karl Mannheim, were the first to articulate a concept of a pro-active democracy, one that would not remain neutral in the face of threats to itself. Mannheim in particular, developed a scathing critique of laissez-faire-Liberalism’s tendency to mistake neutrality for tolerance. See, Karl Löwenstein, “Militant Democracy and Fundamental Rights,” *American Political Science Review* 31 (1937) and Karl Mannheim, *Diagnose unserer Zeit: Gedanken eines Soziologen*, 1941. While I believe the sentiment behind *wehrhafte Demokratie* is more properly understood as “proactive” than “militant”—militant communicating an aggressiveness that is lacking in the German adjective—I still find this and other alternative translations less than satisfactory and have thus decided to maintain Löwenstein’s original English word choice.

² William H. Sewell, Jr., “Historical Events as Transformations of Structures: Inventing Revolution at the Bastille,” *Theory and Society* 25 (1996): 843. Sewell uses

as his example the new articulation of revolution that came about in France during August of 1789.

³ To the surprise of many, the FDP broke with the CDU over the issue of state emergency powers and became the sole party to oppose the 1968 Emergency Laws, ultimately arguing that they jeopardized individual liberties.

⁴ Michael Schneider, *Demokratie in Gefahr? Der Konflikt um die Notstandsgesetze: Sozialdemokratie, Gewerkschaften und intellektueller Protest, 1958-1968* (Bonn: Neue Gesellschaft, 1986).

⁵ Ibid 43-6.

⁶ The absence of a West German police force trained to deal with hostage situations and the complication of exclusive state, not federal, jurisdiction over the existing police force was by and large blamed for the debacle.

⁷ Stephen M. Sobieck, "Democratic Responses to International Terrorism in Germany," *The Deadly Sin of Terrorism: Its Effects on Democracy and Civil Liberty in Six Countries*, ed. David Charters (Westport, CT.: Greenwood Press, 1994), 57-61.

⁸ The minutes of the coalition's meeting in early January 1976 suggest that the proposal to supervise oral communication raised concerns in both parties about whether the government was on the right track and real doubts as to whether such a step could achieve the desired results. "Koalitionsgespräch," January 12, 1976, AdsD Bestand Helmut Schmidt 9370.

⁹ Helmut Schmidt, "Erklärung der Bundesregierung zur inneren Sicherheit und zur Terrorismusbekämpfung am 20.4.77," *Verhandlungen des Deutschen Bundestages: Stenographische Berichte* (Bonn, 1977).

¹⁰ In the second "Sicherheitsgespräch" on 16 August, the ministers demonstrated a keen awareness of the divisive nature of state violence and purposely reached once again for *innere Sicherheit's* emphasis on improving police administration and information technology rather than "risk alienating the main constituency of the SPD and FDP the way new laws and other 'strong-arming tactics' would." "2. Sicherheitsgespräch," August 16, 1977, AdsD Bestand Helmut Schmidt 10014.

¹¹ Explicit comparisons between the current extremism and that which destroyed Weimar were not new. The murder of Buback, for example, was compared to the murder of *Reichsaussenminister* Walther Rathenau by members of both the parliamentary left and right. The "German Autumn," however, witnessed a new level of concern evinced by members of cabinet. The seriousness with which the ruling few debated the potentialities of the present through the lens of the past is evidenced in the August-September correspondence of Federal Minister Hans-Jochen Vogel with the historian Karl D. Bracher. Vogel expressed particular concern with the similarity between the university situation of 1928-1932 and the current one in West Germany. AdsD Bestand Hans-Jochen Vogel, Correspondence 3.

¹² Sobieck, 55.

¹³ Only four members of parliament, all belonging to the SPD, voted against the proposed law.

¹⁴ Deutscher Bundestag, *Verhandlungen des Deutschen Bundestages: Stenographische Berichte*, 8. Wahlperiode 1976 (Bonn, 1977): 3368.

¹⁵ Ibid. 3370.

¹⁶ In both its rejection of specific anti-terrorist legislation and its refusal to acknowledge terrorists as political, rather than criminal actors, the government stressed the equality (i.e. non-special status) of all citizens before the law. Their support of the *Kontaktsperregesetz* broke with this earlier defense of the existing legislation.

¹⁷ In a speech shortly following the resolution of the terrorist crisis, Helmut Schmidt promised that the forthcoming documentation of the events would “at the very least also make clear for the members of the SPD why we had to ask for a demonstration of trust and how we came to be willing to ask such a thing...” Helmut Schmidt, “Diskussionsbeitrag Bundeskanzler Helmut Schmidt in der Sitzung der SPD-Bundestagsfraktion,” AdsD Bestand Helmut Schmidt 10018.

¹⁸ While true that the SPD had already proven itself willing to support military campaigns, most notably those carried out by the United States, and the placement of missiles on West German soil, the employment of military/police force in the name of the German state alone was unprecedented.

¹⁹ *Dokumentation zu den Ereignissen und Entscheidungen im Zusammenhang mit der Entführung von Hanns Martin Schleyer und der Lufthansa-Maschine “Landshut”* (Bonn: Presse- und Informationsamt der Bundesregierung, November 2, 1977), 86.

²⁰ Ibid. 86-7.

²¹ *Stern* October 26, 1977: 212.

²² Herbert Marcuse, “Repressive Toleranz,” in Robert Paul Wolf, Barrington Moore, and Herbert Marcuse, *Kritik der reinen Toleranz* (Frankfurt/Main: 1965).

²³ Quoted in: William David Graf, *The German Left Since 1945: Socialism and Social Democracy in the German Federal Republic* (Cambridge: Oleander Press, 1976): 263-264. For the entire text, plus additional protest tracts, see Rudi Dutschke, Wolfgang Lefevre, and Bernd Rabehl, *Rebellion der Studenten* (Reinbek: Rowohlt, 1968).

²⁴ Oskar Negt, *Achtundsechzig: Politische Intellektuelle und die Macht* (Göttingen: Steidl, 1995), 87-93.

²⁵ “Die Erklärung der Gefangenen und die Beweisanträge der Rechtsanwälte machen deutlich, dass die Aktionen der RAF nach völkerrechtlichen Gesichtspunkten gerechtfertigter Widerstand gegen Völkermord waren und dass die gefangenen Kämpfer als Kriegsgefangene anerkannt werden müssen.” Otto Schily and Hans Heinz Heldman, “Einen Revolutionär können sie töten, aber nicht die Revolution: Beweisanträge im Stammheimer Prozess,” IISG ID-Archiv Bro 2224/19. In order to further establish the West German state as the instigator of violence through its collaboration with the unjust and criminal nature of U.S. intervention in Vietnam, the defending attorneys went so far as to call U.S. President Nixon and Helmut Schmidt to the stand.

²⁶ Regular reports on both prison conditions and the individual well-being of suspected and convicted terrorists were circulated amongst the radical left. The strong belief that an alternative to state-generated information on what went on in the prisons led to the organization of numerous groups (such as *Rote Hilfe*) and newspapers (*Informations-Dienst* being the most prominent and widely read) with the explicit purpose of exposing the real existing conditions within the FRG. These groups were

eventually successful in bringing international organizations such as Amnesty International in to examine the West German prison system.

²⁷ The dilemma expressed by many who did not condone the actions of the RAF but believed anything less than full solidarity with the terrorists themselves was not an option is particularly well captured in an anonymous article printed in April 1977. See, *Pflasterstrand* 7: 20. The broader discussion around the solidarity owed imprisoned terrorists is found throughout the entire spectrum of radical literature and over a broad span of years. See, for example, the correspondence between Prof. Helmut Gollwitzer and Sebastian Cobler printed in: "Solidarität mit der RAF" in: *Rote Hilfe–Dokumentation Politische Justiz* (Frankfurt/Main: Rote Hilfe Frankfurt, n.d.) and "Rote Zellen zum Brief von Hans-Joachim Klein: 'Die Hunde bellen und die Karawane zieht weiter,'" *Informations-Dienst* May 28, 1977: 6-7.

²⁸ From a 1972 interview reprinted in: *Über die Produktion von Terror–Urteilen!* (Bochum: Rote Hilfe Bochum, n.d.), 96. The belief that the 1970s marked a period of "restoration," or counter-revolution, in the FRG was especially widespread among those leftists, like Biermann, of a generation slightly older than the student movement. See, also Oskar Negt, "Terrorism and the German State's Absorption of Conflicts," *New German Critique* 12 (Fall 1977): 15-27 and Herbert Marcuse's reference to the "situation of preventative counter-revolution" in the FRG in "Mord darf keine Waffe der Politik sein," *Die Zeit*, 16 September, 1977.

²⁹ Dany Cohn-Bendit interview with author from 25 November, 2002.

³⁰ Mescalero, "Buback-Ein Nachruf," *Göttinger Nachrichten*, 27 April, 1977.

³¹ Erich Fried, "Zur Veröffentlichung des 'Mescalero'-Textes 'Buback - Ein Nachruf' in der vorigen DAS DA-Ausgabe" *Das da* 9 (1977).

³² „Buback – Ein Nachruf“: Eine Dokumentation (Berlin, 1977), APO-Archiv "Mescalero Affair"; Gemeinsame Antwort der Berliner Herausgeber der Dokumentation „Buback – Ein Nachruf“ auf den offenen Brief des Senators für Wissenschaft und Forschung vom 7. Juli 1977 UND Gemeinsame Erklärung zur Dokumentation „Buback – Ein Nachruf“ (Berlin, August 15, 1977), APO-Archiv "Mescalero Affair"; Sozialistischer Hochschullehrer Bremen, ed., *Materialien zur Diskussion: Die Mescalero-Affäre* (Bremen: Sozialistischer Hochschullehrer, 1977) ID-Archiv ZDO 35080/1977.

³³ Ibid; „130 Hochschullehrer verurteilen 'Buback-Kampagne,'" *AStA-INFO*, June 28, 1977.

³⁴ Detlev Claussen, "Solidarität oder Distanzierung: Falsche Alternative," *links* 40 (July 1977): 40.

³⁵ Following the events at Brokdorf this sentiment was expressed with urgency in the pages of *Arbeiterkampf*, *Die Große Freiheit*, *Informations-Dienst*, and innumerable student-produced papers and flyers. For an account of the rising violence and the anti-nuclear-energy scene, see Stephan Aust, *Brokdorf: Symbol einer politischen Wende* (Hamburg: Hoffmann & Campe, 1982).

³⁶ The appearance of this debate in the print media of the radical left is all the more striking due to the student movement's rabid response to Jürgen Habermas in 1967 for his argument that a distinction between violence to things (*Sachen*) and violence to

people was untenable—an argument made all the more famous for his warnings against “Leftist-fascism.” See, Jürgen Habermas et al., *Protestbewegung und Hochschulreform*, 1969: 136-49.

³⁷ What is frequently referred to as Fischer’s principle rejection of terror, or violence in general, was first voiced at the “Römerbergrede” of Pfingsten 1976 during the Sozialistisches Büro’s “Antirepressionskongress.” For a reprint, see Frankfurter Spontis, “Uns treibt der Hunger nach Liebe, Zärtlichkeit und Freiheit...,” *Links* 8 (July/August 1976): 11. Fischer’s February 1977 *Autonomie* article, “Verstoß in ‘primitivere’ Zeiten: Befreiung und Militanz,” drew explicitly on this earlier speech and was circulated in the next months throughout numerous radical journals.

³⁸ Rudi Dutschke, “Kritik am Terrorismus muss klarer werden;” Herbert Marcuse, “Mord darf keine Waffe der Politik sein;” Heinrich Böll, “Wer Freunde hat, birgt eine Bombe,” all printed in *Die Zeit*, September 16, 1977.

³⁹ Alf Brustellin, Bernhard Sinkel, Rainer Werner Fassbinder, Alexander Kluge, Maximiliane Mainka, Edgar Reitz, Katja Rupe, Hans Peter Cloos, and Volker Schlöndorff, *Deutschland im Herbst*, West Glen Films, 1978.

⁴⁰ In their first initiatives to found an oppositional daily newspaper, the editors explicitly expressed their desire to differentiate themselves from the flood of radical weeklies and monthlies that already existed—both in the creation of a national, daily readership, but also in terms of a more “professional” (without falling into the pitfalls of professionalized journalism) layout and approach. This latter speaks directly to an attempt on their part to appeal to (or at least be read by) a larger, even mainstream public. *Initiativgruppen für eine Tageszeitung*, ed., *Prospekt: Tageszeitung* (Frankfurt/Main: Zeitungsinitiativ, 1978); *Taz*, ed., *Dieses obscure Objekt uns’rer Begierde: Die Tageszeitung: Diskussionspapiere und Leserbriefe, April 1978-1979* (Frankfurt/Main: Sumpf-Verlag, 1979).

⁴¹ This conceptualization of the Greens quoted in: Sara Parkin, *The Life and Death of Petra Kelly* (London: Pandora, 1994), 88.

⁴² Pamphlet in IISG Projekt Arthur Archive.

⁴³ Petra Karin Kelly, *Nonviolence Speaks to Power*, eds. Glenn D. Paige and Sarah Gilliatt (Honolulu: Center for Global Nonviolence Planning Project, University of Hawaii, 1992), 11.

⁴⁴ Heinrich Böll to Helmut Schmidt, 4.11.81, AdsD Bestand Helmut Schmidt 6382.

⁴⁵ Relevant here are not only institutional initiatives—where willingness and ability to work within the existing system indicated a break with the extra-parliamentary tradition—but also groups such as punks and squatters whose protest methods differed even from the “house-occupiers” of the 1970s.

**WAR AND TERROR
SOME TIMELY OBSERVATIONS ON THE
GERMAN WAY OF WAGING WAR**

Michael Geyer

Terror came to be an integral aspect of German warfare in World War I.¹ It emerged from within the Prussian-German military profession rather than being imported from the outside. It was the product of choice, even if this choice may have looked to the combatants as ineluctable and was justified in this way. In any case, the deliberate deployment of terror did not result, as if by necessity, from the conditions of war such as the industrialization of warfare or in the intensity of slaughter in trench warfare as is commonly argued.² It was chosen with a specific purpose in mind. However, once the choice was made, it was difficult to revert. This suggests that terror was not simply a military means among others, but constitutes quite literally another, alternative way of fighting war in the modern age. While beyond the scope of this essay, it is part and parcel of the revolution of military affairs occasioned by the French Revolution and the (Anti-)Napoleonic Wars.³

WAR AND TERROR: WHAT IS AT STAKE?

On the surface, it would seem that the German *Wehrmacht* is the ideal subject for this kind of exploration. The sheer ferocity and aggressiveness as well as the ideological commitment of that force would seem to explain its terrorist actions. However, if we want to explore the mechanisms and processes that lead a military force, trained in the tradition of European land warfare to embrace terrorist tactics, we rather turn to the Imperial Field Army in World War I. For in the *Wehrmacht* we see the outcome of a cycle of “innovations” that occurred earlier. To be sure, even the practices in World War I were not without precedent. Leaving aside a grander argument about the origins of terrorist warfare in the French Revolution, historians have quite frequently pointed to colonial warfare, and German colonial warfare in particular.⁴ They might as well point to civil wars, European revolutionary and

counterrevolutionary wars—such as the ones in 1848/49, in 1871, or in 1905—or the American Civil War.⁵

The long and the short of these genealogies is that there was precedence for the uses of terror in nineteenth-century warfare, if only one cares to look. But the armies of Europe—and the German imperial army did not differ in this respect—were not trained in terrorist tactics and their staffs did not plan campaigns of terror. The imperial army set out to fight a conventional war in World War I only to confront situations, that led it to the deliberate embrace of terrorist tactics and, in the end, to the formulation of what one might call a doctrine of terrorist warfare. This suggests that terror in warfare is not well understood as an “import.” It is, rather, the product of a military learning process in intractable situations. We may think of this process as fatal, but this only indicates that there are perverse forms of learning much as there are beneficial ones.

This said, it would weaken the argument considerably if we were to expand the uses of the term ‘terror’ indefinitely. Analytically and historically, it makes sense to speak of the use of terror in modern warfare only insofar as (a) the target is a civilian population and (b) the purpose or aim is an explicitly stated military advantage, ultimately victory. In the first instance, this is simply to say that while there are cruel or criminal ways of waging war—as for example with dum-dum bullets or with gas—they do not constitute terror. By the same token, not every dirty war, not every atrocity, is an act of terror, although atrocities are (and were at the time) acts in violation of international humanitarian law. But this latter point needs some more probing.

While laudable and defensible as a moral position in view of the sheer repugnance of any form of war against civilians, the qualification of this kind of war as terrorist does not contribute much to an understanding of terror and war. While there is a great deal of barbarism in every form of warfare, terror is purposive action. It is best confined to those actions that deliberately aim at intimidating and breaking the will of the enemy by threatening the safety of a land and its people through acts of exemplary violence in order to ascertain superiority and control.⁶ Terror is the kind of violence that deliberately aims at undermining the sense of safety and integrity of a land and its people. It produces its effect

of gaining a military advantage by inducing fright. Used by the military, it focuses on exemplary action (as opposed to the random actions of non-military terrorists). Contrary to what we may think, terror is always used with good reason—in fact, ever since Robespierre terror is used by supremely reasoning people.⁷

But why distinguish the uses of violence against civilians, if all of them are reprehensible and many of them are criminal? Why make the terrorist use of violence so narrowly circumscribed an act? Because this kind of war—the deliberate (use of) violence against civilians in order to ascertain military victory or to stave off defeat—has become an ever more central feature of warfare in the twentieth century. The terrorist use of force is one way of waging modern war, and it definitely became the German way of waging war in World War I.

The German case, while unique in many ways, points to a general problem of twentieth century warfare, for there is a strange paradox at work. In an age in which civilians are ever more explicitly exempted from war by international law, they also have become ever more assiduously targeted as objects of violence. Why should this be the case? The prevailing answer either lets the professional military off the hook or implicates military force *à tout cours*. That is, the common answers suggest either that only rogue armies engage in “atrocities” or that all soldiers are murderers. The truth is not halfway in-between, but it is somewhere else. It lies very much at the heart of modern warfare as purposive action. The question of terror and its use in war arises as a consequence of the extraordinary difficulty to ascertain what, in the end, constitutes military victory or, for that matter, control of territory and population. Similarly, it results from the hope and expectation that there is always another chance in war, even after defeat. Terror comes into its own as a way of waging war in the context of decisions over how to end wars. The uses of terror in warfare are always predicated on the presumption that entire nations wage war and that they will wage war until they themselves (as opposed to their armed forces) are destroyed. Civilians thus are not pawns, but the very objects (and subjects) of terrorist warfare: they are the battlefield in the struggle over victory and defeat.

THREE CASE STUDIES

Because the war against civilians in the context of World War I is so unfamiliar, it seems advisable to build the case from the ground up rather than from the top down. I have picked three cases that reflect different levels of engagement. The first one, the “atrocities” committed by German forces in Belgium, falls squarely within the realm of the tactical use of force; that is, violence is used against civilians in order to achieve specific ends, in this case primarily to achieve the advance of the military campaign. The origins of the second case, the systematic devastation and depopulation of territory as a means to establish a defensive perimeter, may well be seen within the realm of tactics, but in implementing its scorched earth program, the German military also discovered its operational uses. That is, threatening civilian infrastructure and populations became the end of undermining the will of the enemy to fight. The third case emerges from punitive military actions against armed civilian groups, who were quickly labeled as bandits whatever they were. However, these punitive actions for the purpose of maintaining control gave way to an altogether different, more programmatic purpose—the removal or elimination of entire populations so as to reshape social and political order.

“GERMAN ATROCITIES”

There was never any doubt that civilians were killed in the German advance through Belgium and into northern France. But what happened remained hotly disputed. The issue of German atrocities became a *cause célèbre* of international politics, part and parcel of the information or propaganda war that became so intrinsic an aspect of World War I.

The German side insisted that the killing of civilians was justified in that they resulted from military action against so-called *franc tireurs*, irregular forces who had shot at or otherwise impeded or betrayed German troop movements. To complicate matters, the Germans had similar atrocity stories to tell which they, in turn, attributed to Belgian deceitfulness and French emotionalism. Civilians or soldiers in civilian clothes ambushed military columns, crazed girls gouged out the eyes of helpless officers,

wounded soldiers were stabbed, others dismembered. Priests and women stuck out as particularly treacherous villains. The Allied side portrayed these same deaths as indicative of a pattern of pillage, arson, rape, torture, and wanton killing of men, women, and children, typical for the German way of waging war—a barbaric way of war, devoid of a civilized code of conduct. Allied propaganda was no less inventive than the German one.

Image and counter-image mirrored each other in a picture of extravagant and atavistic or primitive cruelty and bloodlust. Atrocity propaganda developed into a veritable “theater of cruelty.” Terror against civilians, we discover, is inseparable from the swirl of rumor, false information, and suspicion of betrayal. It is woven into atrocity stories, at the core of which is a lament about human cruelty. It turns out that terror against civilians was hidden in plain sight. Terror was overdetermined by a propaganda of cruelty, *Greuelpropaganda* is the German word. This propaganda was so transparently fictitious and self-serving that the veracity of any such massacres came to be doubted.

It turns out that the “facts” were right, but their propagandistic explanation and amplification was off the mark. The German field army was not habitually cruel and barbaric, but overly decisive and tough in their application of professional standards in an uncertain environment.

In the course of the German advance through Belgium and into France, violence against civilians occurred in so consistent a fashion over a period of several months that one must rule out accident or misconduct. The main study on the subject by Alan Kramer and John Horne suggests that there were altogether 129 incidents with over ten casualties, among them a handful with over 100 casualties, spreading along the entire front, and involving about half of all German regiments advancing into France.⁸ More than 6000 Belgians and French civilians were killed, among them women and children, although the overwhelming majority consisted of adult males. These killings occurred within the destruction of over 20,000 buildings, the most notorious case being the destruction of the Library of Louvain/Leuven and the near complete destruction of a number of villages and parts of towns. Further, significant groups of civilians, who were either accused of irregular warfare or served as hostages against such warfare, were deported and interned. Occasionally, German units used them as human shields. In short, this violence exhibits a distinct

systematicity and a degree of deliberation, although there is no apparent order that would have required such action.

A closer look reveals three key elements that shaped German action. First, the advancing units were under extraordinary pressure. The operation against France would only succeed if it could be conducted as a continuous and, indeed, accelerating envelopment of enemy forces. Speedy and decisive advance was of the essence. Whether or not a Schlieffen Plan actually existed, the principles that Schlieffen extolled were unequivocal and became the standard form German operational planning. Only a decisive victory, a grand battle of annihilation, engulfing and destroying the main forces of the French army would bring war to an end. Total military defeat would shock the French nation into surrender. After the fact, it has been a much-debated question whether or not this plan had any chance of success. At the time, the main problem was to avert, in a decisive victory, the continuation of war by means of a national uprising. Schlieffen's point was that the military had only one chance of winning the war in battle—by advancing in decisive spectacular fashion so as to annihilate the enemy forces and thus crush the will of the French nation. Whatever else can be said about Schlieffen and his doctrine, he wanted to salvage the professional conduct of war.

Second, with the German advance running into sustained resistance, German units responded by lashing out at communities and civilians whom they suspected to harbor enemy forces or to take up arms. There are two things that matter here. First, German units by and large reacted to the hostile fire they received. These casualties were not numerous, but they were not fictitious either. However, the source of hostile fire was entirely in the eye of the beholder. While it is impossible to exclude irregulars, the fact of the matter is that for the most part Germans drew fire from retreating Belgian and French units, often no more than companies and even platoons that used a tactics of pinpricks. Equally important, they ran into a great deal of friendly fire, which is attributable to a noticeable lack of fire discipline (as well as occasional drunkenness) and recurrent panics that swept through German units.

It is striking that units and entire formations responded to this chaotic situation in a remarkably consistent manner, all the more since there is no indication that a central order existed that explicitly regulated the

terms of engagement. In fact, there is every indication that German units were ill prepared for this contingency. If there was little ambivalence, this had to do with a well-established code of conduct laid down in the service manuals. While these manuals were not primarily concerned with civilians and irregulars, they demanded total subordination to and active compliance with the orders of the occupying forces and threatened harsh measures in case the latter were not forthcoming. They condoned preventative measures, such as hostage taking, in order to quell any desire for resistance. Germany (and for that matter Russia) were notorious internationally for demanding quietude and, indeed, abjection in the face of military occupation.

Harsh as the German stance was, it was neither arbitrary nor, for that matter, atavistic. Rather, it followed basic principles that amounted to a German way of waging war that was premised on the unequivocal subordination of the civilian population to military command. To derive these standards from colonial practice (where they were ruthlessly employed), means to exoticize the realities of European warfare. The German armies, much as the French, had extensive experience with civil war and occupation. Hence, none of the tactics employed, including unsavory ones like using human shields and mass deportations, were really terribly alien. It is just that they had been out of sight. In actual fact they were the default option for a well-trained military force engaged in a war that it preferred not to fight.

Third, much as the regulations demanded absolute subordination, German military thought expected widespread civilian resistance. Not for a moment did the German side anticipate that they would get what they required, quietude and subordination. They took for granted that they would have to assert themselves against resistance—and expected to do so with exemplary measures. As unprepared as the Germans were, their violence against civilians was not just part of a code of conduct and, hence, systematic, but it was also premeditated. Violence reflected commonly shared assumptions about the enemy. The latter were derived from the experience of the 1870/71 war against France. They were a product of selective learning.

The historical grounds for the German assumptions about the enemy and about enemy behavior was the *levée en masse* in the wake of the

French defeat in 1870. The Prussian general staff identified this insurrection as a key problem not simply of this particular war, but of modern warfare as such. Indeed, the General Staff after 1871 developed something of an obsession with the potential for a mass uprising or people's war against a victorious army.⁹ This was the obsession of a conservative and professional military leadership that exorcized not only its own origins in the Prussian wars against Napoleon, but desperately tried to tame what they saw as the flames of revolutionary warfare. It is striking how deeply convinced the Prussian-German military leadership was that modern war was at its roots revolutionary—and that the only way to control it was by overwhelming, awe-inspiring force. In the case at hand, this conviction boiled down to the expectation that the Belgian and French population naturally would rise, because this is what populations did (or were expected to do) ever since the French revolution.¹⁰ The actual folklore of such uprisings was much more vivid, full of cruelty and gore. It unloaded the anxieties of the soldiers onto bloodthirsty women, treacherous priests, and fanatic civilians. But these fantasies are neither here nor there, because it was not the uncanny nature of these fantasies that generated terrorist action. The German field army fought a premeditated war against what they expected to be a hostile population. True as it is that the Belgian and French population never rose, the German side fought them in the expectation of insurrection and revolution. They did so because insurrection was an integral part of modern war for over a hundred years—and it was what the French were known for, at least in the eyes of the German military.

Because German actions in Belgium were not “atrocities,” but premeditated attacks against a civilian population, these actions constituted a major breach of humanitarian law. They were also a breach in the way European land armies expected to wage war. Above all, the Prussian German army set everything on preventing such a situation to occur. However, the fear of insurrectionary warfare, triggered by the circumstances of the German advance, overwhelmed such restraint. The expectation that the French and Belgian populations would be self-evidently hostile justified in advance “measures” against the civilian population. The German military—because it was so profoundly an anti-democratic and counter-revolutionary a force—fell back on its default

principles: war was fought against entire nations and it would be fought in an environment in which the quest for self-determination would outrun the most carefully laid operational plans. Without coordination from above, the German military resorted in this situation to terror against the civilian population, because terror was the way to deal with an insubordinate population.

THE CONSTRUCTION OF THE HINDENBURG LINE

The construction of the Hindenburg line, code-named “Siegfried,” as the most advanced element of a system of defensive field fortifications along the western front and the preparations for and the eventual retreat into the line, code-named “Alberich,” saw the full-scale development of scorched-earth tactics in the German field army.¹¹ It also crystallized a two year process of the ever more encompassing exploitation of people and resources in German occupied territories. It was part and parcel of the turn to what Ludendorff would later call “total war.”¹²

It is less well understood that in the intra-military debate on the advantages and the effect of the Hindenburg line revealed that the damage done in degrading territory and in expelling populations worked also as a symbolic threat, as terror, above and beyond the actual impediment to enemy forces. Violence against territory and people turned from a “tactic” to halt the advance of superior enemy forces into a “strategy” of leveraging the threat of civilian casualties against an overwhelming military force. While the uses of scorched earth as terror met both intra-military and political resistance, the idea was firmly implanted in German military thought during the retreat in 1918.

The retreat into the Hindenburg line was one element in a more general German reorientation warfare that is associated with the rise of Third Supreme Command under Hindenburg and Ludendorff. The key to this reorientation was the emergence of civilians as subject and object of warfare in the context of national mobilization. Thus, the Hindenburg Program, a demand-driven armaments program, and the Auxiliary Service Law, the (attempted) militarization of the entire able-bodied population, aimed at subjecting German civilian life to military needs. By the same token, the turn to unrestricted submarine warfare made Great Britain as a

nation, as opposed to military forces, the target of a military operation. Last but not least, the German military began to experiment with ways of waging war that would undercut the fighting ability of armed forces by undermining the cohesion of nations. Inciting revolution (in Russia) or fomenting ethnic rivalries (in the Baltics, Serbia, or Ireland) emerged as new “weapons” of war. What was to be undermined—the spirit, the fibre, the organic unity, and sustenance—remained vague and metaphorical. But the point is that the Third Supreme Command began to experiment with a whole array of propositions that made the nation into a target of warfare.

The Hindenburg line and the Alberich preparations were, in the first instance, efforts to extricate outnumbered and outmatched German forces from untenable front lines. Initially, the Supreme Command expected to build an in-depth fortification system along the entire front line. What came of these vast ideas was the Hindenburg line. Limited as the project was, it became a veritable laboratory for defensive tactics that were the subject of persistent amazement and no small degree of self-congratulation. Time and again officers involved in the project surprised themselves that things could be done that they had never so much as thought of. It is fitting that they went to great lengths making photographs and even a film about Alberich and the retreat into the line.

There were three aspects of Siegfried and Alberich that made it so memorable: the large-scale use of forced labor, the systematic evacuation of populations, and a planned program of devastation. Together they formed the essential ingredients of an evolving German scorched earth tactics.

Various forms of forced labor were in use especially in the eastern occupied areas (Ober-Ost) and in German agriculture since 1915. In the context of the Hindenburg Program, the Supreme Command developed grand schemes utilizing Belgian labor in German war production. Although notorious for its deportations, nothing much came of them.¹³ This is in sharp contrast to the construction of the Hindenburg line. The concentration of up to 180,000 laborers, most of them involuntary, made this undertaking one of the biggest construction projects ever and the single-biggest slave-labor project at the time. The labor force was composed of approximately 100,000 Russian POWs, 50,000 Belgian and

French conscripted laborers, and a minority of free contract labor. They were supplemented and supervised by fortification battalions and active units (who had previously built their own trenches) and guarded by newly formed reserve guard companies. What emerged, almost overnight, was an entire system of labor camps. Forced labor on this scale got construction done in three months under abominable mid-winter conditions. The Supreme Command rated the project to be so successful that forced labor became the preferred means to build trenches and fortifications throughout 1917 and during the retreat in 1918.

Depopulation also had its antecedents in a variety of threatened and actual deportations in 1914/15 both on the western and on the eastern front. Undoubtedly, the most hallucinatory scheme of this kind was the idea of the (Second) Supreme Command, in 1915, to evacuate the entire Belgian population across the front-line into northern France lest the Allies supply the population. But only “Alberich” planned and executed the systematic depopulation of the entire territory in front and in rear of the Hindenburg line. The project led to intense and controversial debates as to the feasibility and practicability as well as the technicality of “evacuation.” (The term, better known as euphemism for the deportation of Jews in World War II, was used here for the first time in a persistent manner.) Mixed in were recurrent moral concerns as to the righteousness of the act. But the end-result consisted in the deportation of approximately 125,000 people—with the frail, the sick, and the young being “evacuated” forward into no man’s land, and the majority of the able-bodied population, plus cattle, being removed to the rear.¹⁴ It is in the context of Alberich that the German field army worked out the feasibility and practicality of resettlement. It planned and implemented a major project of deportation, not for reasons of ethnic cleansing, but for the sake of achieving a strictly military advantage.

Strangely, devastation was the one aspect of “Alberich” that the officers in charge approached with the greatest hesitance. But once they had overcome their scruples and finished the job, they could just barely contain themselves. Ludendorff’s initial order for a plan for total devastation, which he spelled out to mean complete *Verwüstung* (desertification) left many staff officers dumb-founded. To be sure, it was what the French had done in the Palatinate and what the Russians

did so successfully on their long retreat in 1915. But it was nothing German officers had ever so much as contemplated. They pondered what to do and how to do it and, occasionally, whether to do it. Once the task was completed, they concluded that a better job could have been done (as for example in terms of booby-trapping and mining), but what had been achieved was still surprising to them. They had managed to devastate and degrade a large tract of territory as well as raze entire villages and small towns in front of the Hindenburg line. Alberich was the school, in which the German military learnt how to practice scorched earth in a systematic fashion. The lessons were learnt well. For although scorched earth practices were, after some initial hesitation, deliberately curtailed during the retreat in 1918 by orders first from the military and ultimately from the political leadership, they remained firmly implanted in German military practice.

The extent to which scorched earth tactics were to be used on the retreat into and through Belgium was subject to significant controversies within the field army and between the field army and the political leadership. On the surface, this was a debate between those who wanted to minimize or respectively maximize damage. The minimalists carried the day, although the Allies and the French and Belgian populations thought otherwise in view of the actual destruction. However, the maximalists—among them Ludendorff—prevailed after the fact. They reasoned that while more deliberate devastation may not have slowed down the allies, the threat of devastation, particularly when extended into warfare in the urban and industrial centers of Belgium, would have deterred them from advancing. The war, they argued, would not have been lost, if the Belgian territory and population had been wagered against the Allied advance.¹⁵

This kind of argument is typical for the post-facto rationalization of defeat. What mattered, though, was that the role of scorched earth tactics shifted in these debates. The question was no longer how much was enough. Rather, it now was how much devastation it would take to deter the Allies from achieving their end—military victory. The difference was that the maximalists called for (the threat of) total destruction of the territory and a bloodbath among the civilian population in order to effect

the decision over victory or defeat. This was terror—holding the civilian population hostage so as to effect military and political gain.

THE NATION THAT WOULD NOT FIGHT

At the end of World War I, the German military was engaged in an explosive debate on the uses of terror as a means of warfare. It had developed an inventory of terrorist tactics in the course of the war. Significant elements in the field army were ready to use them to stave off defeat—and, for that matter, to counterrevolution. They would attribute defeat, among other things, to the curtailing of terrorist tactics late in the war.

This said, the line from here to a full-fledged doctrine of terrorist warfare and its systematic preparation proves circuitous, although the transition was completed by 1923/14. Three developments in particular fed into the formulation of this doctrine. First, civil violence and civil war in the East not only added to the tactical inventory of terrorist warfare, but linked it to a nascent right-radical ideology. Second, ideas, plans, and preparations for continuing or renewing war in the face of Allied military superiority recast the issue of the terrorist use of civilian populations into one of national sacrifice. Finally, the political and ideological confrontation with a nation that would not fight was the catalyst that moved terrorist warfare from tactical and operational considerations into the realm of totalitarian politics.

As we have seen above, the principle of punitive measures against real and presumed insubordination in occupied territories was well established as a military practice already in 1914. Military rule in northern France and in the Baltics (the so-called Ober-Ost territories) emerged as key sites for the formation of terror tactics as a means of maintaining order. Military rule in the East differed from that in the West less by its harshness than by its inability to maintain control. By 1916/17, the growing demand for local manpower (a form of *corvée*) and supplies (grain, meat, horses) led to open defiance. The German occupation forces, unable to maintain their grip on the local population due to a lack of soldiers on the ground, resorted to increasingly more extreme actions. The mostly older soldiers of the second reserve (*Landsturm*) stepped down hard on a

recalcitrant and outright desperate local population. With the Supreme Command unwilling to countenance local self-government, the scene was set for a short-lived regime of unbridled violence.¹⁶

Punitive raids as a means to deter banditry turned into a war of extortion and reprisal by 1917/18. However, the number of armed gangs continued to swell dramatically. Unable to maintain day-to-day security, the German army and police units resorted to exemplary action. They used tactics that were mostly familiar from colonial warfare: demonstrative hanging, shooting of captured suspects (in fact, anyone caught with a gun); elimination of supplies and shelter, draconian punishment of collaborators such as the burning houses and villages, as well as hostage taking in order to ascertain compliance with orders. *Bandenkampf* became the linchpin of a regime that shifted the burden of war onto the local population in a system of violent extortion and, yet, was incapable of controlling the territory.

By 1918, this war of extortion became inextricably intertwined with ethnic, national, and Bolshevik agendas. The October Revolution in Russia, the nationalizing ambitions of local majority populations, and the assertion of superiority of ethnic minorities (as for example the German Baltic aristocracy) initially only seemed to raise the stakes in a multiple struggles over the control of the territory and its populations. Yet it soon became clear that this endemic violence took on its very own characteristics. For one thing, the confrontation turned ever more brutal with the insertion of nationalizing and revolutionizing agendas and emotions. With no one in control, everybody did their best (or worst) to demonstrate superiority and to mark the land, the people, and the dead—hence, the pervasiveness of burning, hanging, pillaging, rape, and the mutilation of the dead—all of this was multiplied by rumors and hearsay.¹⁷

But there was intelligence, a crude strategic foresight, behind such action. For we discover upon closer inspection that the militarized administration of territory and its terrorist tactics increasingly gave way to a struggle over populations. Nationalizing militias, ethnic vigilantes, Bolshevik units, and German troops—they all had come to work with the implicit or explicit rationale to weaken, expel, or eliminate competing or enemy populations and to supplant them with friendly populations so

as to perpetuate control. Even the German forces followed this example, consolidating German population centers or resettling German expellees who were returning from Russia while driving those who had seized farms off or redistributing land of enemy populations.¹⁸

However, the German presence in the East could not be sustained by the small local German population. It depended on its ability to intimidate—to put down people who in the midst of an escalating civil war were no longer seen as merely evasive and potentially insubordinate, but as principally hostile. The effects of this pervasive suspicion could be seen in what was likely the single biggest massacre by German troops in World War I with over 1000 civilian casualties. When elements of the Bavarian Cavalry and Württemberg Landwehr of the Brigade Knoerzer faced both a local upheaval and an amphibious landing of Red Army units in Taganrog, the furthest outpost of the German advance toward the Caucasus in 1918, they decided to preempt the civilian threat and shot the suspect population, initially declaring them as part of the landing party. When compelled to justify their actions, the Brigade staff insisted that it was futile to distinguish between Red soldiers and civilians. An entire population had become the enemy.¹⁹

It is tempting to extrapolate from these situations a more general military readiness to implicate entire populations in hostilities. This would seem all the more appropriate, since voluntary detachments formed from the remnants of “eastern” units proved to be among the violent vanguard of the German counter-revolution. Also, the most famous of these detachments—the free corps units who fought a dirty war in the Baltics in 1919 and tend to be identified as the main forerunners of Nazi warfare—added both an attitude and an ideology to a terrorist practice.²⁰ However, in order to trace the genealogy of military terror against hostile populations we have to step back for a moment and return to the last months of the war and the controversies over how to continue war against superior allied forces.

As we have seen that all sorts of blood-curdling ideas about holding the urban population of Belgium hostage floated in the air in late 1918.²¹ But nothing came of them and, Generals Wilhelm Groener and Hans von Seeckt, the successors of Ludendorff, reverted to a more strictly conventional warfare of maneuver in the wake of defeat. If indeed it

would come to a renewal of war, the German military command hoped to preserve enough reserves and the Allies would demobilize quickly enough so that, in the end, the German army would at least stand a chance of success—especially if the German army could rely on Soviet support. Seeckt, the founder of the *Reichswehr*, came to epitomize this trend. While he did not hesitate to pick up elements of irregular warfare, he reflected the mainstream opposition in the officer corps against a war plan that overthrew traditions of European land warfare.

However, there was always another strand that emerged from thinking through the conundrum of defensive war against overwhelming force. How, after all could a German army fight, if it came to a French or Polish incursion on German territory? The issue became pressing after disarmament was completed in 1920/21. A rather powerful clique within the *Reichswehr*, grouped around the mastermind of the German withdrawal in 1918, Joachim von Stülpnagel, held that the proper military response was to apply and perfect the experience of the fighting retreat and use it on German territory and with the German population in the defense of the nation. In charge of operations in the *Reichswehr* after 1923, Stülpnagel developed, both in theory and practice, a combination of conventional military and unconventional, irregular warfare, which he called *Volkskrieg*. This doctrine became the key to German military planning until 1935/36, although its heyday occurred paradoxically during the years of stabilization in the second half of the 1920s.²²

Two things matter with regard to *Volkskrieg* doctrine. First, warfare whose object was the civilian population was systematically incorporated into the theory and practice of the German conduct of war. Hence, all the inventory of tactics which we have seen elaborated in the construction of the Hindenburg line and the German retreat—such as devastation, evacuation, and forced labor—as well as the *Bandenkrieg* tactics—such as assassinations, attacks against command posts in the rear and supply lines, insurrection—now became incorporated into standard practice. They became subject to a long list of war games in the mid-1920s.²³ Second, these tactics were now fused into a war plan. The explicit purpose of *Volkskrieg* was to draw enemy forces into a maelstrom of chaotic violence so as to provoke them to turn against the civilian population (with the effect of diminishing collaboration) and to weaken them sufficiently so

that even a relatively small main force was able to overwhelm a disoriented enemy. The conclusion in both cases was unequivocal: the use of terror (and the expectation of counter-terror) was the only road to success in asymmetric warfare against an overwhelming military force.

The main problem with *Volkskrieg* was that in 1918 the *Volk* was unwilling to fight. There was nothing that would convince the nation otherwise, at least for the time being. Neither the Versailles Treaty in 1919, nor the commencement of reparations and effective disarmament in 1920/21, nor the occupation of the Ruhr in 1923 changed that. Both the Weimar governments and the military leadership were unwilling to risk war because they feared the collapse of German unity and a full-scale civil war, truly *finis Germaniae*.²⁴ Yet in order to fight war—conventionally or unconventionally—the military more than ever needed a society ready for fighting war. It is in this context that the last pieces in the elaboration of a premeditated “regime of terror” fell into place a decade ahead of the time when this regime was instituted with the Nazi seizure of power.

Because a German society ready and willing to fight war did not exist, it had to be “fabricated.” Several elements came together in articulating this key posture of a terrorist strategy. The best known is the pervasive assumption of conspiracy; that is, the idea that the German field army could not possibly have been defeated, it could not possibly have been kept from renewing war if it had not been for conspiratorial forces within German society that had wanted to destroy German society all along. Among other things, this idea was expressed in the stab-in-the-back-myth. But the latter was only the mainstream version of rather more extreme arguments about the internal decomposition of the German body politic by Jews, freemasons, and Jesuits, the long-standing *bêtes noires* of German nationalists and of the European Right. The fusion of these ideas with a social darwinist racism and antisemitism is well understood.²⁵ Perhaps, the more important point here is that fragments of an older ideology were now put to use by immensely practical elites who, when talking about annihilation, was ready to do it. Here, the impact both of mass slaughter in general and of violence against civilian populations in particular provided the hands-on practice that nineteenth-century

reactionary or nationalist *Weltanschauung* never had. The new terrorists were less ideologues than can-do types.²⁶

The second element for mobilizing terror came with a novel voluntarism of its main advocates. The pro-war faction within German society was not only a minority that had lost control of the state and, for that matter, the military. But as a minority it stylized itself as the vanguard of a new nation and a new state. Here, the influence of the free corps could be felt most palpably. The latter, in particular, were quite literally separated from the nation, even served in the (white) Russian counter-revolution, and understood themselves as the core of a new nation to be born from chaos and a new state to be made from the racial body of all Germanics. Fantastic as these ideas were, they enlivened the rather drier and more functional military proposition that war could only be fought with a nation ready for war. The right-radical vanguard, in declaring itself to be the voluntary core of the new nation, served as the main agents for this nation to come.²⁷

While small and fractured throughout the 1920s, the Right was unequivocal in calling for fundamental regime change as the prerequisite for waging war—a war that they considered imminent or, in any case, inevitable if Germany was ever to recover from defeat. In its current state, they argued, Germany was not only unwilling, but incapable to fight. Hence, it would take a violent makeover of the *Volk* in order for the nation to be ready for war. Outlandish and baroque as some of the language of national renewal was, at its center was the quest for the remaking of German society as a prerequisite for survival in a chaotic world. This appeal stuck. The nation that refused to fight would have to be molded into shape. Terror, we discover, always comes as a dual proposition—as use of violence against hostile populations to ascertain domination and as use of violence in order to fabricate the nation ready to fight a terrorist war.

A GERMAN WAY OF WAGING WAR?

Perhaps the most important conclusion that we can draw from the above is that civilians became an integral part—both subjects and objects—of warfare. This was, at occasions, a matter of cruelty, of the desire to inflict harm and injury on the body of the enemy and, hence,

may be explained as a result of resentment or rage. There was no doubt a great deal of resentment and rage. But inasmuch as cruelty moved individual soldiers and entire units, they were moved in turn by the premeditated use of violence against civilians. Civilians became the objects of warfare, not due to ancient hatreds, but due to professional considerations concerning victory and defeat.

Civilians became a factor in a calculus of military necessity, as Isabel Hull argues in her yet unpublished study on the subject. Thus, because violence against civilians served a military end, entire populations were “evacuated” from the war zone. While this and similar actions occasioned a great deal of cruelty, they were not, by and large, done with what one might consider “evil” intent.²⁸ In fact, the striking thing about them was that such action did not need any extraneous intention at all beyond what was considered militarily advantageous. There was always a justification and, indeed, a plausible cause for such action, and, hence, it proved difficult particularly for military men to escape the logic of action against civilians even if and when they felt a moral revulsion against it.

Terror is not just any kind of violence against civilians, however. It is violence to achieve a military advantage, or so it appears at first sight. The purposive nature is worth saving.²⁹ Upon closer inspection, the nature of the military advantage comes more clearly into focus. Terror imposes order, control, quietude—ultimately the quietude of the graveyard. It turns citizens into populations without rights. There were few people who died during the building of the Hindenburg, although surely the threat of punishment, if not death, was always present. Nonetheless, it was a terrorist project. Military advantage is further gained in the demonstration, as in the 1918 fantasies of a bloody retreat, that people will be treated as if they had no rights. Last but not least, it comes as the project of creating a nation that unequivocally serves war. What is common to all of this is not a state of arbitrary lawlessness, but of the rightlessness of the people who have fallen victim to terror.

It comes with this nature of terror that it is highly regulated—and even where it initially is not, as in the Belgian atrocities in 1914, it quickly becomes codified. It is perhaps surprising, but the more expansive the element of terror in the violence against civilians, the more highly regulated it is. The Free Corps of 1919 would seem to be the exception—

at least that is the way they saw themselves. But the worst of free corps violence occurred not in the fight of any against all in a chaotic world, but in the rather more prescribed environment of civil wars. And it was at its worst when it was backed up by state power. Hence, savagery and barbarism played their role.³⁰ One can indeed speak of a distinct coarsening of military conduct. But savagery and barbarism do not explain the uses of terror. Terror is far too deliberate, far too premeditated for that.

With regard to premeditation the question is what ends terror serves. The most extreme answer would be to say that it serves to destroy enemies—until there is only one man standing as Rousseau had predicted it in his sketch of future war.³¹ This point is well taken—and not merely because we could observe an escalation of violence toward the end of World War I and in the ensuing civil wars that engulfed entire populations and targeted them for (still mostly imaginary) elimination. The sense of pervasive and limitless enmity as a source of terror is truly frightening. It is to placate this bottomless nature of enmity that terror makes its appearance. While I did not attempt to explain this enmity, the importance and, indeed, centrality of the phenomenon cannot be emphasized enough.

In this context, two intertwined aspects proved especially important. If we look through our cases, we will quickly discover that terror will come to the fore at moments of great insecurity. Terror is, of course, the weapon of the weak, as is often and, to a point, rightly argued. The *Volkskrieg* doctrine of the *Reichswehr* would fit this explanation well. But it is equally the weapon of the strong who feel threatened and fear losing control. It is above all, as the postwar German development suggests, the weapon of all those who believe that, by right, they ought to be strong. The latter are, perhaps, the most fearful terrorists.

It would be wrong, however, to simply psychologize terror. Much as it uncertainty is a sentiment or emotion—a question of recognition—of individuals and groups, it is also a structural condition. Terror emerges as an option in a world in which victors cannot be certain of their victory and the defeated are never defeated enough to give up. This is a world in which armies, although immensely destructive, are never quite capable of ascertaining regime change, because regime change is driven not by military might, but by social, economic, cultural, and not least by religious powers beyond the purview of military force. Terror is thus the strategy

used to fabricate a society that is cut loose from these social, cultural, and religious moorings and exists only in the distinction of friend and enemy. Terror is a public state of enmity and terrorism is the act of deliberately generating it.³²

ENDNOTES

¹ This essay relies heavily on research in the military archives of Bavaria (Munich) and Württemberg (Stuttgart). I have abstained from quoting the mass of these sources, because this seemed to me the wrong venue for a detailed empirical study (which will follow). However, it was the right moment to think through the outlines of a problem that is difficult to grasp. In my own thinking I am deeply indebted to Isabel Hull who has generously provided me with her manuscript on “Military Culture and ‘Final Solutions’ in Imperial Germany.” However, since the manuscript was not available in its final version, I abstain from quoting from it.

² Daniel Pick, *War Machine: The Rationalization of Slaughter in the Modern Age* (New Haven: Yale University Press, 1993).

³ McGregor Knox, “Mass Politics and Nationalism as Military Revolution: The French Revolution and After.” In: *The Dynamics of Military Revolution, 1300-2050*, eds. McGregor Knox and Williamson Murray (Cambridge/New York: Cambridge University Press, 2001), 57-73.

⁴ Michael Howard, “Colonial Wars and European Wars.” In: *Imperialism and War: Essays on Colonial Warfare*, Eds. J.A. de Moor and H.L. Wesseling (Leiden: E.J. Brill : Universitaire Pers Leiden, 1989), 218-23. Trutz von Trotha, “‘The Fellows Can Just Starve’: On Wars of ‘Pacification’ in the African Colonies of Imperial Germany and the Concept of ‘Total War,’” in: *Anticipating Total War: The German and American Experiences, 1871-1914*, eds. Manfred F. Boemeke, Roger Chickering and Stig Förster (Cambridge/ New York: Cambridge University Press, 1999), 415-35.

⁵ Charles Royster, *The Destructive War: William Tecumseh Sherman, Stonewall Jackson, and the Americans* (New York: Knopf, 1991); Robert Tombs, *The Paris Commune, 1871* (Harlow/ New York: Addison Wesley Longman, 1999).

⁶ Charles Townshend, *Terrorism: A Very Short Introduction* (Oxford/ New York: Oxford University Press, 2002).

⁷ Carol Blum, *Rousseau and the Republic of Virtue: The Language of Politics in the French Revolution* (Ithaca: Cornell University Press, 1986).

⁸ John Horne and Alan Kramer, *German Atrocities, 1914: A History of Denial* (New Haven/London: Yale University Press, 2001).

⁹ Stig Förster, “Dreams and Nightmares: German Military Leadership and the Images of Future Warfare, 1871-1914,” in: *Anticipating Total War*, 343-76.

¹⁰ Daniel Moran and Arthur Waldron, eds. *The People in Arms: Military Myth and National Mobilization since the French Revolution* (Cambridge/ New York: Cambridge University Press, 2003).

¹¹ Since there is no reliable, published study on “Siegfried” and “Alberich,” see the assessment of Heeresgruppe Kronprinz Ruprecht: *Denkschrift Siegfried-Alberich*,

Heeresgruppe Kronprinz Rupprecht, Id 2271 geh., April 1917. I. Teil : Ausbau der Siegfried Stellung; II. Teil: Alberich. In Bayerisches Hauptsaatsarchiv IV: Militärarchiv Heeresgruppe Kronprinz Rupprecht, Bund 108. See also Gerd Krumreich, "Der Krieg als großer Arbeitsplatz: Frühjahr 1917. Der deutsche Rückzug und die Folgen," *Frankfurter Allgemeine Zeitung* 21 March 1998, Beilage.

¹² John Horne, ed. *State, Society and Mobilization in Europe during the First World War* (Cambridge: Cambridge University Press, 1997).

¹³ Lothar Elsner, "Ausländerbeschäftigung und Zwangsarbeiterpolitik in Deutschland während des Ersten Weltkrieges." In: *Arbeitsmarkt und Wanderung in Deutschland seit der Mitte des 19. Jahrhunderts*, ed. Klaus J. Bade (Ostfildern: Scripta Mercaturae, 1984), 527-57. See generally on the issue: Andreas Gestrich, Gerhard Hirschfeld, and Holger Sonnabend, eds. *Ausweisung und Deportation: Formen der Zwangsemigration in der Geschichte* (Stuttgart: Steiner, 1995).

¹⁴ Anette Becker, *Journaux de combattants et de civils de la France du Nord dans la Grande Guerre* (Histoire.[Villeneuve d'Ascq]: Presses universitaires du Septentrion, 1998).

¹⁵ Michael Geyer, "People's War: The German Debate about a Levée en Masse from 1870-1945," in: *The People in Arms: Military Myth and National Mobilization since the French Revolution*, eds. Daniel Moran and Arthur Waldron (Cambridge/New York: Cambridge University Press, 2003), 124-58.

¹⁶ For the following see, above all, Vejas G. Liulevicius, *War Land on the Eastern Front: Culture, National Identity and German Occupation in World War I* (Cambridge/New York: Cambridge University Press, 2000), and Anette Becker, *Oubliés de la Grande Guerre: humanitaire et culture de guerre, 1914-1918. Populations occupés, déportés civils, prisonniers de guerre* (Paris: Noesis, 1998).

¹⁷ The best study on the subject is Włodzimierz Medrzecki, *Nimicka Interwencja Militarna Na Ukrainie* (Warsaw: Wydawnictwo – DIG 2000, 2000). A shorter German version can be found in his "Bayerische Truppenteile in der Ukraine im Jahr 1919." In: *Bayern und Osteuropa: Aus der Geschichte der Beziehungen Bayerns, Frankens und Schwabens mit Russland, der Ukraine und Weissrussland*, ed. Hermann Bayer-Thoma (Wiesbaden: Harassowitz, 2000), 441-59. However, these studies are just an indication of what is available in terms of sources.

¹⁸ We know very little about warfare in the east. A first glimpse on the subject is provided by Winfried Baumgart, et al., *Von Brest-Litovsk zur deutschen Novemberrevolution: Aus den Tagebüchern, Briefen und Aufzeichnungen* (Göttingen: Vandenhoeck & Ruprecht, 1971). Peter Holquist, *Making War, Forging Revolution: Russia's Continuum of Crisis, 1914-1921* (Cambridge: Harvard University Press, 2002) is a model study for the Russian side. There is no German equivalent. An intriguing (and historically apt) account of the nature of this savage war, although dealing with the southeastern front in Macedonia can be found in the film by Bertrand Tavernier, *Capitaine Conan*, France 1996, 130 min, color.

¹⁹ Surprisingly, this incident has not been studied, although it was discussed at great length in the war cabinet and can be reconstructed from the bottom up, using the sources of the 7th Württemberg Landwehr Division in the Hauptstaatsarchiv Stuttgart

as well as the records of the 5th Chevaulegers Regiment in the Bayerische Hauptstaatsarchiv, Militärarchiv in Munich.

²⁰ Robert G. L. Waite, *Vanguard of Nazism: The Free Corps Movement in Post-War Germany, 1918-1923* (Cambridge: Harvard University Press, 1952); Dirk Schumann, *Politische Gewalt in der Weimarer Republik 1918-1933: Kampf um die Straße und Furcht vor dem Bürgerkrieg* (Essen: Klartext, 2001).

²¹ Michael Geyer, "Insurrectionary Warfare: The German Debate about a *Levée en Masse* in October 1918," *Journal of Modern History* 73 (2001): 459-527.

²² Michael Geyer, *Aufrüstung oder Sicherheit: Die Reichswehr in der Krise der Machtpolitik, 1924-1936* (Wiesbaden: Steiner, 1980).

²³ Gaines Post, *The Civil-Military Fabric of Weimar Foreign Policy* (Princeton: Princeton University Press, 1973).

²⁴ See Conan Fischer, *The Ruhr Crisis, 1923-1924* (Oxford: Oxford University Press, 2003).

²⁵ Michael Jeismann, "Der letzte Feind: Die Nation, die Juden und der negative Universalismus." In: *Die Konstruktion der Nation gegen die Juden*, eds. Peter Alter, Claus-Ekkehard Bärsch and Peter Berghoff (Munich: Fink, 1999), 173-90.

²⁶ Michael Wildt, *Generation des Unbedingten: Das Führungskorps des Reichssicherheitshauptamtes* (Hamburg: Hamburger Edition, 2002).

²⁷ See, for example, Ernst von Salomon, *Die Geächteten* (Berlin: Rowohlt, 1937), and especially his *Das Buch vom deutschen Freiheitskämpfer* (Berlin: W. Limpert, 1938).

²⁸ Daniel Jonah Goldhagen, *Hitler's Willing Executioners: Ordinary Germans and the Holocaust* (New York: Knopf, 1996) might make this argument.

²⁹ Robert Pape, "The Strategic Logic of Suicide Terrorism," Workshop Paper: Program on International Security Policy, Fall 2002.

³⁰ Omer Bartov, *Hitler's Army: Soldiers, Nazis, and War in the Third Reich* (New York: Oxford University Press, 1991) might make this argument, at least in his earlier work.

³¹ Jean-Jacques Rousseau, "[Fragments sur la guerre]," *Oeuvre complètes*, ed. Jean-Jacques Rousseau, Vol. 3: *Du contrat social: Ecrits politiques* (Paris: Gallimard, 1964), 613-16.

³² I take this to be the main conclusion of Hannah Arendt, *The Origins of Totalitarianism* (San Diego/ New York: Harcourt, Brace, Jovanovich, 1973).

**WHEN DEFEAT IS THE MOST LIKELY OUTCOME:
THE FUTURE OF WAR IN THE TWENTY-FIRST CENTURY**

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Two events: They are a little more than half a century apart, and where they took place is separated by more than 11,400 kilometers. One occurred on August 6 and 9, 1945, over Hiroshima and Nagasaki, when the atomic bombs “Little Boy” and “Fat Man” (as they were nicknamed in the naive and virile military style) exploded, killing some 170,000 people, and within the next five years the officially registered number of dead totaled around 340,000. The other event is known by its date, September 11, 2001. Of four passenger aircraft that were turned into missiles by their hijackers, two hit the twin towers of the World Trade Center on the southern tip of Manhattan within little more than a quarter of an hour of each other, a third hit the Pentagon, and the fourth, thanks to its heroic passengers, crashed southeast of Pittsburgh. More than 3,000 people lost their lives.

In this paper I investigate the relationship between these two events in the light of Spittler’s theory of dispute settlement,¹ showing their similarities and their differences, and thus offering a broad outline of the future of war in the twenty-first century. My thesis is: war in the future will be shaped by “wars of defeat,” by interaction between the thermonuclear war of extermination and the global small war.

**SPITTLER’S THEORY OF DISPUTE SETTLEMENT
AND ITS IMPORTANCE IN THE
ANALYSIS OF MODERN WARS**

In investigating war it is helpful to look at a sub-discipline of the social sciences which is concerned with disputes, and in particular dispute settlement, as one of its core areas: legal anthropology. Here we find in Spittler’s theory an observation that is of great importance for an understanding of the reality of modern wars.

Spittler's theory holds that every society has a variety of forms of dispute settlement. These forms are institutionalized and legitimized to different degrees, from the private discussion within one's own four walls, to blood feuds, or to appeals to official legal authorities. The forms of dispute settlement are connected with each other in a number of ways, of which two are of interest here. One is contained in Spittler's theory: every form of dispute settlement is influenced by its alternatives. In our democratic societies, for example, we typically threaten to call the police when faced with serious conflicts with strangers. I call this circumstance the "interdependence of the forms of dispute settlement." The other can be seen in an extension of Spittler's theory: the interdependence of the forms of dispute settlement is characterized by the supremacy of legitimate violence. All forms of dispute settlement are overshadowed by legitimate violence. In stateless societies it is self-initiated violence that casts this shadow; in state societies it is the institutions of the state monopoly on violence, in the first instance the police and the army. The anthropologist Elizabeth Colson has said of societies of violent self-help that the people in these societies "walk softly because they believe it necessary not to offend others whom they regard as dangerous,"² and this applies in a modified form to societies where the state monopolizes the use of force: the people are freed from the threat of violent self-help—and as a result men may be ruthless and reckless towards others from whom they have nothing to fear. They constantly argue because the dispute is taken out of their hands by the various mechanisms of the state legal system, the legal profession, and today even by a comprehensive private system of legal expenses insurance.

What is true of domestic dispute settlement is also true of armed conflicts, at least since the use of the atomic bomb against Japan in World War II: the forms of war are interdependent. Wars belong to a certain order in which each form of war is influenced by existing alternative forms—in spatial terms these alternatives can today cover the whole world. The supreme form in this order of wars is that which has the greatest destructive potential both militarily and in terms of its arms technology. Today this is the thermonuclear war of extermination.

**THE NUCLEAR WAR OF EXTERMINATION:
A WAR OF DEFEAT**

In a radio broadcast on September 12, 1945, about five weeks after the dropping of the atomic bombs on Hiroshima and Nagasaki, Edward R. Murrow³ said: “Seldom, if ever, has a war ended leaving the victors with such a sense of uncertainty and fear, with such a realization that the future is obscure and that survival is not assured.”⁴ From the perspective of conventional war and the unique rise of the United States to become the supreme victor and superpower, this comment, made just a little more than three months after the unconditional surrender of the German Reich and ten days after that of Japan, appears to be strangely low-spirited. This is not the kind of comment usually made by the victor. Still less is it the commentary of someone belonging to a power which has just emerged victorious from the biggest and bloodiest military conflict in history, archived the status of unassailable superpower through the combination of a uniquely productive war economy and sole ownership of atomic weapons, and which was engaged in setting up a new world order according to its own ideas. But like many of his contemporaries, Murrow—still uncertain, and more suspecting than knowing—expressed what was to become the logic of the cold war, at least after 1949, when the Soviet Union also acquired the atomic bomb: nuclear war disconnected the apparently indissoluble link between war and victory in a new war of defeat. Once both sides have the atomic bomb and the so-called “second-strike capacity,” a nuclear war can no longer be won.⁵ It is a war with no victor and no victory.

The power of nuclear war to exterminate is so boundless that the word “apocalyptic” has justifiably and repeatedly been applied to it. This term has been even more appropriate since nuclear war was upgraded to thermonuclear war on November 1, 1952.⁶ The destructive power of the bombs used in thermonuclear war is measured not in kilotons but in megatons. The destructive potential of these bombs is greater than that of all other weapon systems together which man has used in all his wars since the beginning of history. The devastation it permits is almost beyond what the human imagination can conceive of.⁷ A thermonuclear war is not a war in any known sense. The very expression to “conduct” a

thermonuclear war seems empty of any meaning. Everyone knows that in addition to wiping out the warring parties, total thermonuclear war threatens the existence of the human race itself. But no one can “conduct” the apocalypse, it can only be “brought about” or “triggered.” Through its complete inability to admit compromise, nuclear war leaves nothing to be said. “You can say everything and nothing about it,” writes Robert Jay Lifton; it is in truth “a kind of ‘last journey together’ along the path of error ... No statement on nuclear aggression is anywhere near adequate.”⁸

This new turn in the history of the development of the human capacity for violence had and still has so many consequences that even after half a century of scholarly research they are still not completely clear. Among the most obvious are the history of the cold war, the history of the arms race and disarmament since the beginning of the first atomic bomb trials in the desert of New Mexico, the growth of the “nuclear club” (the cozy name used in the Anglo-Saxon academic world for the increasing number of actors possessing the power of extermination), and the history of the surreal—not to say mad—attempts to make it feasible to conduct a total thermonuclear war.

In line with the expanded version of Spittler’s theory, among the less obvious consequences of nuclear war is the fact that the base of society has been completely replaced. More than a quarter of a century apart, few have made this so impressively clear as Günter Anders, in his despairing study of the *Antiquiertheit des Menschen*⁹ dating from 1956, and especially Robert Jay Lifton, in a book I have already referred to entitled “The Broken Connection,” which appeared in 1979. Lifton takes up Anders’ conclusions, which date from 1960: “Up to 1945 we were just the frail actors in an unending play, at least in a play where we did not worry ourselves about its ending or not-ending. Now, the play in which we act a frail part is itself frail. ... [U]p to 1945 we were just the mortal members of a race which was thought to be timeless ... Now we belong to a species which is in itself mortal. ... We have changed our status from ‘genus mortalium’ to ‘genus mortale.’”¹⁰ Lifton investigates how the appearance of nuclear war has brought about a radical change in our ideas of death, which previously was understood as a “struggle to achieve, maintain and repeatedly reconfirm a collective feeling of immortality under constantly

changing psychological and material conditions.”¹¹ Thermonuclear war has radically changed the struggle for immortality and has thus redesigned the whole base of society, by placing human attitudes towards death and the continuation of life within the context of an absolute, final threat. In his impressive book, Lifton sets himself the task of investigating the consequences of this new foundation of human existence.

However, our primary concern here is that the invention of nuclear war and the presence of the thermonuclear threat have also led to changes in the alternatives to nuclear war: the “conventional” war and the small war.

THE END OF THE PREDOMINANCE OF CONVENTIONAL WAR

It is not necessary to agree with the provocative thesis of Martin van Creveld, who believes that in the future conventional war will at best be of marginal importance.¹² The wars between China and Taiwan (1954, 1958), India and China (1962), India and Pakistan (1947-49, 1965, 1971), in the Falkland Islands (1982), and in the Middle East up to the Second Gulf War (1948/49-1991), provide a basis for such skepticism. Nevertheless Creveld is unquestionably right when he emphasizes the decreasing importance of conventional war in the face of the atomic threat. Conventional war always meets its limits when it directly involves atomic powers, or when it threatens their direct interests, above all those of the nuclear superpowers, the United States and Russia. Since 1945 no superpower has engaged in conventional warfare against another, and at the same time none of the non-nuclear armed allies has been drawn into a conventional war by the opposing superpower. War planners and chiefs of staff have fantasized about the concept of “flexible response,” which would allow for a greater interval between a “conventional” attack by the opposing superpower and the triggering of a nuclear war—and have spent an incredible proportion of the national income on it. Luckily it has never been necessary to test the soundness of this response. Most military analysts were convinced that a massive conventional attack by the USSR could only be stopped with “tactical atomic weapons.” A defense of this kind, however, would have turned Germany, for example, into an uninhabitable land. In contrast, when small countries such as Israel and its Arab neighbors

declared war on each other, the superpowers watched more or less calmly. But they watched carefully to end the fighting as soon as their vital interests were even marginally threatened. The best example of this is the fourth Israeli-Arab war of 1973, known as the Yom Kippur war, when Egypt and Syria joined forces to attack Israel, and President Nixon in the course of the war declared the state of nuclear alarm for the American forces to counter a suspected Soviet threat to Israel. Neither Syria nor Egypt attempted to advance beyond the cease-fire lines in the Sinai and the Golan Heights. Probably they feared that the Israelis might actually use the atomic bomb.¹³

Conventional war is overshadowed by nuclear war and within the immediate spheres of interest of the atomic powers it has lost its logic according to the Clausewitzian idea, namely “that war is not a mere act of policy but a true political instrument, a continuation of political activity by other means.”¹⁴ Standing at the foot of a ladder of escalation, whose last rung is the self-destruction of the two sides and the extermination of the human race, conventional war takes on the existential logic of thermonuclear war, in which every interest literally evaporates.

In the context of Spittler’s theory it must also be emphasized that “conventional” war has likewise developed an historically unique destructive potential and therefore also throws its shadow over other forms of war—even if this shadow is shorter and does not, as with the prospect of atomic winter, threaten to freeze everything. The destructive potential is so great that a conventional war between highly industrialized countries would also seem to evaporate the category of “interest.” However, a conventional war between a highly industrialized country and a country without the same degree of industrial and military organization must end up as a bloodbath for the latter. The Second Gulf War was an example of this: on the American side 148 soldiers were killed in action, 458 soldiers were wounded, and 132 died outside direct combat. Official American estimates of Iraqi losses cite over 100,000 soldiers killed and 300,000 wounded.¹⁵

THE RISE OF THE SMALL WAR

In the shadow of the nuclear threat and of the destructive potential of conventional war, a form of war that is called by many different names because of its many different forms and legitimations, has flourished all the more. Among these names are “guerrilla” or “partisan war,” “limited war,” “war of low intensity,” “civil” or “tribal war,” or, in the self-justifying linguistic usage of the warring parties, “national liberation war,” “liberation struggle,” “terrorism,” “police action,” or “fight against terrorism.” Using Major-General Charles Edward Callwell’s term, who, in 1896 was the first to publish an insightful analysis of what later was known under different names, I call it “small war.”¹⁶

The small war represents a far-reaching break with conventional war and has some important features in common with total war. It is a bloody kind of war and the total number of dead in all small wars since 1945 is estimated at 20 million—and no one knows whether there were millions more or a few hundred thousand less.

Conventional war, also called “trinitarian war” by Creveld,¹⁷ involves the state sovereign, an army maintained and organized by the state, and the “people,” who have to participate in the military operations of the state sovereign by providing soldiers, and by supporting the prosecution of the war in many ways, not least by demonstrating and having to demonstrate their patriotic loyalty. Conventional war is conducted by states against other states in the “interest” of the state. None of this applies to the small war.

The actors in a small war are as varied as the term “irregular” forces suggests, which is a conception belonging to conventional war. They are the “partisan,” “revolutionary,” “liberation” and “people’s armies” of the twentieth century. The more successful they are, the less they can be distinguished from their Clausewitzian counterpart, the conventional army—yet the nuances are of tactical, strategic and symbolic importance. They are the violent and mobile groups and organizations of the twenty-first century, of differing sizes and with different degrees of organization, the “rebels,” “militias,” bands of mercenaries, “death squadrons,” or just gangs of thugs, who are only out for their own interests and are not very much different from the *écorcheurs*, who devastated rural France in the

One Hundred Years War.¹⁸ They are led by the national and social revolutionary resistance fighters, the visionaries and ideologists of the twentieth century, or the *condottiere* of the twenty-first century consisting of militant charismatics, real or self-appointed “tribal leaders,” militia “generals,” “drug barons” and other “warlords” from all kinds of origins. The opponents of the revolutionary and liberation armies, of the rebels and militias, are often state or quasi-state actors. Accordingly, conventional armies also play a key role in the small war. But typically they are supported by armed security and secret services, special police units, and in many places an obscure collection of paramilitary and clandestine groups; the boundaries between “regular law enforcement agencies” and “irregular” police units become blurred to a point where they are indistinguishable.

What is true of the actors in a small war, applies in the same way to the “interests” that are at stake in a small war. The supposed “interests” of the state in conventional war are a highly equivocal phenomenon, giving rise to endless disputes between contemporaries, and above all between historians of war and of the causes of the outbreak of wars. The reason is that wars cannot be reduced to a question of interests, and especially not in the case of those who begin a war. As long as small wars approach conventional war in accordance with the models of the partisan, revolutionary and liberation wars of the nineteenth and twentieth centuries, the national and social revolutionary or territorial interests can well be said to have the same force as the interests that are involved in conventional wars. The more multifarious the actors in the small war become, and the more they separate themselves from the predominance of the interests of conventional war, as at the end of the twentieth and the beginning of the twenty first century, the more varied will be the “interests” and the more complex the spectrum of “goals” that are pursued in small wars.

They fight for “national liberation,” for the rights of “their” people, against “oppression” and “slavery,” or in order to die in a “holy war.” They fight, like the Chechen commander Babrudi in Itum-Kali, a remote village somewhere in the mountains along the Georgian border, for the return of traditional institutions such as blood vengeance and the right of hospitality. But ultimately they all fight for that which constitutes the heart of politics, a share in power, and above all undivided power. On the contemporary “violence markets,”

where the small war takes on the form of a “neo-hobbesian war,” something else comes to the fore, in addition to the desire for power, which is also part of all military “interests” and especially that of power: the gaining of booty and women, and a growing enjoyment of violence which develops into a cult of cruelty.

The biggest of the warlords build up their power base by trading in raw materials, precious stones, and valuable timber. The head of *l’União Nacional para a Independência Total de Angola* (UNITA), Jonas Malheiro Savimbi, went in for diamond smuggling, which his Zairean colleague, Laurent-Désiré Kabila, the former head of state of the Democratic Republic of the Congo, matched on the business front with gold smuggling. Charles Taylor became rich on the violence market of Sierra Leone with tropical precious woods, diamonds, and ores. Drugs and arms dealing not only fill the war chests, but also the pockets of the warlords and their soldiers. “Taxes,” protection money, and abductions all help to ensure that the financial fountainheads of violent conflicts do not dry up and that there are many paths to private enrichment. Today, enslavement and its variant, the white slave trade, as well as the misappropriation of humanitarian aid, can be added to the list. The small war is an opportunity for the armed “young entrepreneur” to become rich and accumulate economic power. Not infrequently the opposing sides do business with each other. For the great number of “simple” paramilitaries, militiamen, or rebels, who have no work or who have to live on an income which scarcely reaches subsistence level, the maintenance and pay of the “soldier” may be sufficient incentive. In the Bosnian war many volunteers topped up their meager wages as “weekend fighters.” One of the protagonists of the cult of cruelty in the Bosnian war, the militiaman Zeljko Raznatovic, known as “Arkan,” recruited his men by paying them 100 German marks, instead of the 12 marks that soldiers in the Bosnian government army had to be satisfied with.¹⁹ In addition to maintenance and pay, looting is the main path to (usually modest) enrichment. For some it is the start-up capital for founding large or small enterprises and for returning to civilian life. Many young combatants in the Somali conflicts gained possession of trucks by means of looting and used them to try and become ordinary business people. Others were able to gain so

much booty that it was enough to set up a profitable business. Some managed to establish themselves as international middlemen.²⁰

Closely linked to these economic opportunities are the social opportunities available to those who join armed movements. Here and there, individuals may rise to become not only warlords, but, as in Kabila's case, heads of state. Of course, such spectacular careers are reserved for the few. But the majority have opportunities for rising into the middle class and into the political and administrative elites through the political and military hierarchies of the armed movements and organizations. This applies from Bosnia to Somalia.²¹ To modify and expand the title of a newspaper article by the historian Peter Englund: violence not only provides a living, it is also a means of social advancement.²²

There can be no doubt that the economic and social entrepreneurship promoted by violence is risky. Its founding capital is the readiness of the entrepreneurs to take the risk of themselves becoming victims of the cult of violence, of being killed or maimed, or landing in a jail where the rules of the constitutional state do not apply, or of finding themselves social outcasts again after a few years. The small war on the violence markets links entrepreneurial with social and existential risks—deadly risks. And many losses are suffered, entrepreneurially, socially and existentially.

If the violence of peoples' armies and national liberation armies is directed by the rules of conventional wars, small wars show a spectrum of violence, from the regulated violence of a warrior ethos, such as in the case of the greater part of the Tuareg rebellion in Niger and Mali in the first half of the 1990s, which carried on the traditions of violence of aristocratic societies, right down to the cult of cruelty on the violence markets of the warlords. For decades on the violence markets of Africa and Asia, the rule has been what so horrified the European public on the violence markets in the Balkans: the massacre of defenseless people, men, women and children alike, mutilation of the living and of the dead, sexual humiliation through excessive practices of rape and torture in which boundless human fantasies of violence are practiced on the victims.

In short: the "interests" involved in a small war can range from the political power interests of national and social revolutionary movements to extreme privatization of all political and collective interests and their replacement by a lust for violence and a cult of cruelty. In the latter case, the

interests are part of what I have called the “kalash-syndrome,” a combination of violence between politics and privatization, of a feast of masculinity and youth, of a claim to the status of victim and of the glorification of violence by the mass media.²³

The unleashing of violence on the violence markets reveals the typical dynamics of all violent processes. However, more important in our context is the fact that this unleashing of violence radicalizes a feature of the small war which it shares with other forms of war, genocidal wars of pacification, total wars, and above all the nuclear war of extermination: namely the abolition of the separation between soldier and civilian. This abolishment has many aspects, of which I shall briefly discuss a few here.

Its core is the manner of conduct of the war: the abolishment of the separation between soldier and civilian in the “fighter.” In line with the manner of conduct of the partisan and guerrilla war, the military actor in the small war is civilian and soldier in one person. The fighter is a militant civilian and a soldier camouflaged as a civilian—with the result that the combat against the partisan and guerrilla fighter by conventional armies also abolishes the distinction between civilian and soldier, and institutionalizes the massacre. Added to this transformation of soldiers into fighters is the fact that—again related to total war—more or less large parts of the population are mobilized for the war. Typically, mobilization of the population also involves the use of force and terror. In the centers of rebellion and the strongholds of the warring parties, civilian and military life are mixed together and this contributes in a small war to removing the spatial order which separates soldiers from civilians, and, unlike in a trinitarian war, the boundaries between war front and hinterland become blurred or disappear altogether. The small war takes place within the same space as normal day-to-day life. It is not confined to fronts, even if it has spaces that are vaguely called “rebel area” or area “controlled by the government.” On the contrary, the small war prefers to “strike the enemy from behind,” to carry out “actions” where the opponent thinks he is most secure, i.e. in the spaces of everyday life, which would seem to be far removed from the war. The small war turns the everyday life of civilians into a life “in the shadow of terror.”

The inability to predict events, an essential element of war, is shifted from the front into the day-to-day life of the people; it is generalized.

The abolition of the separation of civilian and soldier, civilian life and front life, is particularly dramatic since the “civilian” becomes a direct target of violence—and here, too, there is no difference between the small war and the forms of war mentioned above, especially nuclear war. In certain phases of a small war, as in the carpet-bombing of total war and in nuclear war, the civilian is not only the preferred, but also the only target of attack, with no regard for sex or age, and even relatively independently of social status and political power. Bomb attacks blow up innocent people, not “unluckily” but deliberately. As in total war and nuclear war, there are no “innocent” people in a small war.

Because the small war is overshadowed by conventional and nuclear war, it reverses two elements of these wars. The small war usually covers a more or less small area and it is a war of simple and cheap weapons. With the exception of desert areas with very low populations, the leaders, groups, networks and organizations that conduct small wars are not normally in a position to control large territories. They content themselves with rebel areas or, in urban regions, with areas known by the names of the parts of the town which are under the control of this or that “militia,” this or that “general” or “drug baron.” Nor is a small war a war of highly developed weapon technology. It is conducted with weapons which people in even the poorest countries can afford and which anyone can learn to handle within a short time. Small wars are characterized, not by the weapon technology of professional soldiers, nor by the high tech arsenal found at the front in trinitarian and total wars, but by convenient caches of arms in the civilian hinterland. The standard weapon in small wars today is the Kalashnikov. Unlike in modern conventional war and in nuclear war, this simplicity of the weapons places the fighter and the fight at the center of the armed conflict. What is true of every war is especially true of the small war: it stands or falls with the willingness of the fighters to kill and be killed. The technological development of trinitarian war can be understood as a process of robotization, of which the epitome was the use of cruise missiles in the Second Gulf War of 1990/91. The drone projects of industrial arms manufacturers are leading the way. The small war clings to the primacy of the fighter. It is a culture and an expressive cult of violence, while the trinitarian war has produced a culture of the technology of violence and a cult of functionalism.

As a war of simple weapons and logistics, the small war is not a war of battles, which are avoided by its “generals” unless the circumstances are particularly favorable—such as the successful battles of General Vo Nguyen Giap at Dien Bien Phu in the spring of 1954, which sealed the fate of the French in Indochina, or of the Tet Offensive in 1968, which was in fact a military failure, but a great psychological success for the Vietcong. It is a war of partisan and guerrilla struggles, of ambushes and “actions,” of abductions and attacks. With the exception of the successful final stages of many a “national liberation struggle,” in which the small war takes on the character of a conventional war, as in Indochina, Vietnam or in the Israel of the War of Independence, the basic categories of conventional war become meaningless or vague in a small war. For instance, there is no declaration of war as defined by international law. This means that the categories of a beginning and an end to the war are equally vague, just as the time structure of a small war is quite different from that of a conventional war. Small wars usually begin with some kind of violent action, and, characteristically, it is usually only historians who can say later on when the war “really” began. It is a war of ups and downs. Phases of intense military conflicts are succeeded by times of reduced violence—and sometimes both observers and participants may be deceived into thinking that the war has ended, only to suddenly see it return with full intensity. It is a war of “small wars,” like a Russian nesting doll, although in this case the unit which in the Russian nesting doll represents the biggest and outermost doll is more a product of memory and historical reconstruction. It is a war counted in decades rather than in years, from the war of secession on Bougainville and the “civil wars” in Columbia, to the “civil war” in the Sudan which has now been going on for almost half a century. It is frequently a war which, just as it has no beginning, does not end with the conclusion of a peace treaty. It is a war of cease-fires and peace agreements, but without peace. Its peace is the exhaustion of the warring parties, and the hostilities break out again when the warring parties have got reorganized and have mobilized new forces, both economically and in terms of personnel, which often means no more than that a new generation takes up the war again.

In the small war, a central feature of conventional war undergoes a transformation, and this transformation reaches completion in nuclear war: the categories of military victory and defeat change their meaning. The small war is a war of victories and perhaps still more of defeats. The circumstance that

its victories are usually expressed in *political* and not in military terms,²⁴ reveals the transformation of the categories of “victory” and “defeat” in the small war. The political success of one of the warring parties, in other words of the non-state actor, is a result of military success only in exceptional cases; the wars in Indochina and Vietnam are examples of such exceptions. However, where political success is a primary concern in the small war, despite Creveld’s assertion of the irrefutable political success of small wars²⁵, the contribution of the small war to political success is usually very controversial among historians. The debate on decolonization and its critique of the “myths” of the “struggle for freedom” are evidence of this.²⁶ The fact that the small war can frequently be measured in decades is also a sign that it is a war of military *and* political defeats rather than a war of victories. In distinction to Creveld, we should not forget that even political success is repeatedly denied to small wars. The small wars in Latin America, black Africa and in the Pacific Islands (from Irian Jaya to Bougainville), and the rise of violence markets, are depressing examples.

The increasing likelihood of defeat in small wars is further enhanced by the most recent invention in the history of war: the global small war.

GLOBAL SMALL WAR

There is no doubt about where the global small war was invented. This place is specifically located between the world which consists of the extremely complex problems of the Middle East and Arab Northeast Africa, with its history and its violence markets, and the history and present situation of the violence market in Afghanistan. The actors in the connection between the Middle Eastern and the Afghan world are the members of a jihadist entrepreneurial and migration movement—if we accept the official announcements of the western governments, that Osama bin Laden and the al Qaeda network are responsible for the attacks of September 11. But as a new form of war²⁷ the global small war points beyond the conditions in which it emerged and back to the economic, social, cultural and political circumstances in which violence markets are also embedded. Above all it points to nuclear war, and can be understood as its direct counterpart.

The global small war is a war which consists of a new combination of different forms of violence of a terrorist and military kind. Embedded

in the history of assassination attempts, of terrorism, and of small wars in general, it operates with carefully planned terrorist attacks of warlike quality which increase the shock which such attacks are meant to cause. In the well-known manner of terrorism, the acts of violence are intended to produce general uncertainty and deep-rooted fear on the one side, and on the other to elicit sympathy and support from those for whom the global small war combatants see themselves as an avant-garde of the act. Above all it aims in three ways at the foundations of the attacked society, its everyday world: it is intended to make the state of emergency a basic, generalized experience of the citizens, and for this purpose it uses the means on which everyday life in high tech societies is dependent to a scarcely conceivable extent. It is an attack on everyday technologies, using them as its means. Thus the terrorist attack is a combination of severe material damage, the massacre of defenseless people, and an armed attack on the opponent's political and economic power centers.

Like the small war, the global small war does not have the usual declaration of war.²⁸ It has no easily identifiable beginning, no end and no concluding peace treaty. But unlike the small war, it is a war in which the attackers do not seek to conquer the territory in which they carry out their massacres, and they cannot and do not wish to take over power. The same applies to those who are attacked, those who consider their task to be the destruction of networks—and who resort to the desperate, costly and bloody solution of attacking states instead of networks. The global small war has no war zone, because in principle any place in the world can become a war zone, if the actors see a physical, economic, political or symbolic link between a particular place and their opponent. What was New York yesterday, can be Frankfurt, London or Moscow tomorrow. The global small war is an anonymous war on the part of the attacker. The attacking power remains more or less unidentified. It is given a face only through secret services and police, who claim to have “reliable information” on the identity of the attackers. It is a war in which the central political institutions and the public do not decide who the “enemy” is, against whom they must “conduct a campaign”; this decision is made by the secret services and police investigating agencies. Defining the “enemy” is made more difficult by the fact that the “enemy” is not a formal organization, or even a group of organizations. The global small war radicalizes and globalizes the principle of the supreme autonomy of the fighting units, the principle of networks and “cells,” as in the small war. Its actors form a global network of groups and

political movements, which are involved more or less independently in terrorist activities or wars. These networks cover relations with states, state agencies, secret services, actors in organized crime, the business world, or “active supporters” from the world of political movements and conflict regions. The network has nodes and centers which depend on ethnic, religious and political loyalties, and the conflicts connected with them, for example the conflict between Israel and its neighboring Arab states, and international conflict constellations.

Among the most important innovations of the global small war is a weapons revolution which, as I have mentioned, consists of nothing other than abolishing “weapons” in the traditional sense. The “weapon” is the opponent’s everyday technology, converted into a deadly trap for the opponent. In this sense the global small war is an absurdity, a “war without weapons”—if one doesn’t count the gun which might be required to force pilots or others to comply with the orders of the attackers. However, global war opens up a gloomy prospect: it could become a war of high technology and a direct descendant of nuclear war, with its nuclear proliferation dynamics, if the combatants gain possession of atomic bombs and turn the global small war into a global nuclear small war.

However, up to now the most important “weapon” in the global small war is not a technical tool but those two predispositions which are a basic condition of any war: the willingness to kill and to be killed. With the invention of the terrorist suicide attack, which turns human beings into living bombs, willingness to be killed has even become the most important predisposition required of combatants and has thus introduced a further apparent paradox into the forms of conducting war: the war of aggression as self-victimization. Willingness to die was always a part of the inseparable duo of victorious survival and deadly defeat. But a suicide attacker has no prospect of victory in the immediate conflict. Death is certain. This also applies to suicide attacks on the “Kamikaze” model, but unlike the “Kamikaze” model, suicide attacks in the global small war are not the fruit of defeat, and unlike the “Kamikaze” model, they are not directed against an armed enemy, with its soldiers and its weapons.²⁹ Rather, the suicide attack is aimed without distinction at both the armed and the defenseless. It aims for a massacre and typically it is one. Just as nuclear war has carried to the extreme something which belongs to the nature of total war, i.e. the abolition of the distinction between soldiers and civilians and the replacing of battles by the massacre of civilians, in the same way, by applying the technique of the suicide attack using the opponent’s everyday technology, the global

small war has radicalized those features of small war which it shares with total and nuclear war, not caring about the distinction between civilian and soldier, and making massacre the rule.

While the small war renders unclear the categories of victory and defeat as they apply to conventional war, the global small war again goes a step further. Like nuclear war, it does away with the category of victory. In a small war, its nearest relative, at least in certain cases, such as the “national liberation war,” victory can still be defined politically as the “assumption of power.” The global small war has no such goal. For the attackers, its “goal” is no more than perhaps the fantasy of bringing about the collapse of a civilization in accordance with Huntington’s ideas of “fault line wars.”³⁰ At best its “goal” is the hope of establishing limits for an international political actor, which are as unclear as the hopes of the fighters are vague. The category of victory can be applied to a successful terror attack, but this is only the beginning of a series of defeats. The carnage in the inferno of American cluster bombs and petrol bombs over the Afghan mountains, the flight of Taliban and al Qaeda fighters from British and American troops, or the cages, sensory deprivation and largely non-existent rights of the prisoners at the Guantanamo military base are the experienced realities of these defeats. The situation of the attacked is just the same. They know only fear, which increases as “victory” becomes a fantasy of power in declarations of war against international terror.³¹

The turning point which global war seems to represent in the history of war can be seen above all when we turn away from the narrow perspective of military theory and look for the changes which it brings about or could bring about in the societies of those involved and in international relations, and at the same time consider the relationship which I used as the starting point of these observations: the dropping of the atomic bombs on Hiroshima and Nagasaki. I will restrict myself to a few keywords.

Like many other observers, I think it is not wrong to assume that the global small war will have far-reaching effects on societies and on international relations. September 11, 2001 and the “hunt” for bin Laden and jihadist networks are the writing on the wall, warning of a new world in which Martin van Creveld’s speculation at the beginning of the 1990s, in his book on the “The Transformation of War” seems to have become a real possibility: The differences between governments, armies and peoples will vanish. Armies will be substituted by security forces having some

resemblance to the police and gangs of thugs. National frontiers will collapse or become irrelevant while rivalry organizations try to hunt each other down.³² The apparently rapid victory over Afghanistan, the Taliban and the human and logistic center of the al Qaeda network has not yet done anything to lessen the speculative character of van Creveld's fantasies of the future. But other consequences of the global small war can already be clearly foreseen. In addition to the fast and generalized use of control technologies, these include growth of the "hard state" and its complement, massive erosion of the classical constitutional state, and the return of the war of aggression, now euphemistically called "pre-emptive war."

The massacres in New York and Washington has already brought about dramatic changes in the democratically controlled state monopoly of violence concerning the decision about war and peace on the one hand and civil liberties on the other. Definition of the "enemy" has become a matter for criminal prosecution agencies, especially the secret services or a network of secret services, which include friendly and cooperating states, in addition to the national services. Definition of the "enemy" is based on suppositions, suspicions and uncertainties—and the whole affair took on a positively surreal air, when, about two months after the first attacks against Afghanistan by the United States, the American government tried to convince the world at large by means of a video tape that bin Laden was responsible for the New York massacre, and this attempt was met by doubts concerning the genuineness of the tape. The security measures and legislation following the New York massacre have led in the United States and western European states to changes in constitutional principles, which before September 11, particularly in the United States, did not appear conceivable. Heribert Prantl, the liberal law reporter and legal commentator for the *Süddeutsche Zeitung*, named a few of these changes in the weekend edition of this paper dated December 8/9, 2001, under the ambiguous heading, "The Terrorist as Legislator."³³ Knowing no prewarning time and dissolving the frontiers which separate the interior from the exterior, the global small war leads to a general reevaluation of the Hobbesian principle of security at the expense of liberty. It boosts strong currents encroaching upon traditional constitutional and liberal rights, because it fits into a long-term development of western systems of law and social control which transform our present systems into variants of a post-civil system which I call "preventive security order." Its criminal law is based on the notion of

“risk” and its job is the control of the population.³⁴ With the loss of the traditional “battle field,” global small war dissolves additionally the fundamental constitutional separation between the police and the military, as van Creveld stresses rightly. Military and police surveillance coincide in the case of an enemy who operates at the same time from outside and from “within,” destroys the conventional separation between front or war-zone and “hinterland,” and transforms more or less unforeseeably the “hinterland” of the enemy into a war-zone.

Above all, the invention of global small war turns against a secular development which has called on so many peace efforts since the end of the nineteenth century and especially after the Second World War, and of which the United States was among the most influential and successful protagonists: the elimination of the war of aggression. Global small war rehabilitates the war of aggression. It is a war of aggression by its very nature as a terrorist act that can in no way be reconstructed as a form of self-defense according to international law. But it also opens the floodgate for the return of offensive war on the side of the victim of its terrorist acts. In the historical perspective of later generations, one case in point might become the American and allied attack against Afghanistan might be a case in point, although today there seem to be good reasons to still categorize (and legitimize) it as an act of self-defense, as did the international community. In addition, with the warlike policy of the Bush administration and of its supporters against the regime of Saddam Hussein in Iraq the first victim of global small war has reached the banks of the Rubicon of the war of aggression legitimizing it as a “war against terrorism.”³⁵ Due to the patient and prudent policy of the members of the Security Council and especially of France and Russia the Rubicon was not yet crossed as of this writing. Instead, with the unanimous decision of the Security Council on November 8, 2002, to predicate an attack against Iraq on well-defined criteria, the floodgate for the return of aggressive war was closed once more.

Quite different and in accordance with the offensive character of global small war was the missile attack launched by a CIA drone on November 3, 2002, which killed Qaed Salim Sinan al-Harethi, said to be a top lieutenant of Osama bin Laden, and a half-dozen al-Qaida members traveling in northwest Yemen, as U.S. forces expanded their overt attacks on the al-Qaida network outside Afghanistan for the first time. It is this

attack that highlights that it is the character of global small war itself, which works for the return of aggressive war even on the part of those who become victims of its murderous violence. Being a war with no ordinary declaration of war, no prewarning time, and no conventional battlefield and led by ill-defined actors within international terrorist networks operating worldwide, global small war destroys the discretion over the future and creates the need to prevent any future attack by striking first. Even more far-reaching is the fact, that the time structure of global small war and the way it is fought destroy the very possibility to distinguish properly between aggression and self-defense. Like the small war, global small war dissolves the unity of time and actions that characterize conventional war. It hands over this unity to the reconstructive efforts of the warring parties themselves trying to legitimize their actions. The discourse of who is the aggressor and who is the aggressee haunting any war and particularly any war since the secular movement to ban preventive war, is no longer a discourse about who first started military actions which typically marked the beginning of a war. It becomes a discourse between enemies who define the events that are said to constitute a sequence of action and reaction in the first place. Thus global small war comprises another paradox: It is a war of aggression in which each warring party *is* at once aggressor and aggressee each claiming at the same time to be the sole victim of the other's aggression, and in which—like in any small war—it is even difficult for later historians to tell its readers when the war began and who the aggressor was.

**FROM AUGUST 6, 1945 TO SEPTEMBER 11, 2001,
OR THE DARK SHADOW OF THE POLARITY OF
WARS OF DEFEAT**

The connection between atomic and global war, to which I referred at the beginning, is more than just a historical and analytical observation. The disaster management team created this connection itself by choosing the name “ground zero” for the mountain of rubble in south Manhattan; it is the term used to refer to the point at which a nuclear explosion occurs. Hiroshima, Nagasaki and September 11, 2001, are at the end and the beginning of a new age. Hiroshima ended the era of two world wars, established the United States as one of two superpowers and ushered in the era of the cold war. At the end of the era of bipolarity and the cold

war, there were no longer any “competing systems,” instead there was one superpower and one “system,” which, in the triumphal advance of neo-liberal philosophy and the ideology of globalization, was felt to be binding for almost the whole world. But just as the arms race of World War II was continued by the irreconcilable conflict between communist totalitarianism and free liberal democracy, between the socialist and capitalist economic systems, and the military and political answer of the Soviet Union to August 6, 1945, came in just four years, the undisputed victory of the United States in the cold war lasted little more than a decade before it was challenged by September 11, 2001. It is a challenge in which for the first time in the several hundred years of U.S. history a war of aggression has reached the continental territory of the United States. And just as the explosion of the Russian atomic bomb in August 1949 reflected the rivalry between the competing systems militarily and politically, September 11, 2001, reflects the multiplication of centers of power in addition to the superpower United States and the shifting of the “East-West” conflict to a “North-South” conflict. In this North-South conflict, the extremely heterogeneous antagonisms and conflicts between the first and Third World and in the Third World have replaced the comparatively clear antagonism of the East-West conflict. The superpower is faced with a war that starts from violence sources on the margins of the international political and economic centers of power. The enemy cannot be clearly identified and cannot be defeated in a military sense. It is a war which, in the words of the “declaration of war” by President George W. Bush on September 20, 2001, promises to be a “lengthy campaign, unlike any other we have ever seen,” and in which the war techniques of the opponent are based on attacking the everyday foundations of a high-tech society and forcing a situation which a highly industrialized society can probably not endure for a long time.

Of the twentieth century it has rightly been said that it was the “American century.” In the sense of van Creveld’s oracle, it would not be out of place to speculate that September 11, 2001, was a beacon announcing a twenty first century belonging to the “fighters,” in which, in the shadow of the atomic war of extermination, the challenges to state governments posed by the global small war will determine the character of international relations and of the domestic order within states. The two centuries have in common an interdependence of wars in a system of conflict, in which the predominance of

thermonuclear war has produced the global small war. The link between the two types of war is that both take defeat as their source of victory.

ENDNOTES

¹ Cf. Spittler (1980); see also Hanser/Trotha (2002; with further references)

² Colson (1974), 37.

³ Murrow was one of the most influential American war reporters and commentators working for the Columbia Broadcasting System (CBS) in the 1940s and 1950s.

⁴ Quoted from Robert Lifton/Mitchell (1996), XV.

⁵ Moreover, the far-reaching effects of the reactor disaster in Chernobyl in 1986 made it unmistakably clear that under certain conditions (for example immediate geographical proximity of two relatively small territories) even in a war in which only one of the parties has atomic weapons and uses them, the effects of atomic destruction involves such high risks for the population of the power using the atomic weapons, that they can hardly be justified.

⁶ On 1 November 1952, the United States exploded a hydrogen bomb for the first time on the Eniwetok Atoll in the Marshall Islands in Micronesia.⁷ Some comparative data to show the enormous change in man's destructive capabilities which came about with the invention of the A-bomb and H-bomb: normal aircraft bombs in World War II weighed between 200 and 250 kg. The big bombs of the dive-bombers (Stuka) weighed 500 kg. The heavy allied bombers dropped aerial mines that weighed over a ton. A V2 rocket carried a warhead weighing 1000 kg. But the bombs that fell on Hiroshima and Nagasaki had an explosive force of 15,000 t TNT and 21,000 t TNT respectively. An H-bomb on an intercontinental rocket usually has the explosive force of 1.5 million tons TNT. H-bombs of over 50 million tons TNT have been tested. The B-52 bomber of the early 1960s carried H-bombs with a power of destruction greater than that of *all* bombs and shells used during World War II by *all* warring powers. In the 1970s, a single U.S. aircraft carrier was in a position to completely raze to the ground a country like modern Germany.

⁸ Lifton (1986), 432. Since I was unable to get the original American edition of Lifton's book, the quote is retranslated from the German translation.

⁹ A literal translation would be: "The Antiquatedness of Man."

¹⁰ Anders (1960), 171.

¹¹ Lifton (1986), 353; see also footnote 3.

¹² Creveld (1998), 30-8.

¹³ *Ibid.*, 38; see also The Insight Team of the London Sunday Times (1974, 399-420).

¹⁴ Clausewitz (1980), 34. I used the not quite literal translation of Michael Howard and Peter Paret (see Carl von Clausewitz, *On War*, Princeton: Princeton University Press, 1976, reprinted partly as Carl von Clausewitz, *Key Concepts*, in: *War*, ed. by Lawrence Friedman, Oxford, New York: Oxford University Press, 207).

¹⁵ Human rights groups claim that Iraqi losses were even higher.

¹⁶ Callwell (1996).

¹⁷ Cf. Creveld (1998), 64-74.

¹⁸ *Ibid.*, 99.

¹⁹ Cf. Calic (1995a), 27-8.

²⁰ Cf. Marchal (1995), 45.

²¹ Cf. Calic (1995b), 143, Marchal (1995), 45.

²² Englund (1998).

²³ Trotha/Klute (2003), Trotha (2001).

²⁴ Creveld (1998), 49-52.

²⁵ *Ibid.*

²⁶ Cf. Mommsen (1990).

²⁷ Since the attacks of September 11, 2001, still represent a historically unique event, one might principally question its institutionalization as a “new form of war,” especially if one stresses at the same time its roots in the history of terrorism and its relationship with the history and the forms of its nearest relative, the small war. But such an approach does justice neither to the fact that on September 11, 2001, a new form of “warlike aggression” was realized whatever the future of this new form of war might be, nor to the responsibility of analyzing a phenomenon which might repeat itself and might become a “new form of war” nor to the serious and far-reaching consequences of September 11 which are already changing our present international relationships and societies (see below).

²⁸ At best, there are manifestos, statements or interviews, circulated by the mass media and the world wide web, which “declare war” to the chosen enemy typically using a bombastic language which has to compensate for the political and military weakness of the warring party in the face of its enemy which is typically a state, a central power apparatus or even a whole powerful civilization.

²⁹ The prominent place of suicide attacks in the military “strategy” of global small war underlines the syncretic character of global small war rooted not only in the history of defeat, terrorism and small war but especially in the cultures of violence of the Middle East and their sharp expression of the “kalash-syndrome” (see above).

³⁰ Huntington (1998), pp. 400-91.

³¹ In his speech “Freedom at War with Fear” President George W. Bush declared before both houses of the American Congress on 20 September 2001 (quoted from: <http://www.whitehouse.gov/news/releases/2001/09/20010920-8.html>): “We will starve terrorists of funding, turn them one against another, drive them from place to place, until there is no refuge or no rest. And we will pursue nations that provide aid or safe haven to terrorism. Our war on terror begins with al Qaeda, but it does not end there. It will not end until every terrorist group of global reach has been found, stopped and defeated.”

³² Creveld (1998: 328; author’s italics).

³³ In December 2001, at the time Prantl was writing his article, 1,200 people of Arab origin were in custody in the United States without any concrete charge against them. At least 5,000 Arab Muslims were questioned in “voluntary” interrogations. The Bush administration ordered that alleged terrorists and their helpers should be sentenced by secret military tribunals appointed by the minister of defense, in which three judges

in uniform could impose the death penalty by majority decision, without the convicted persons having any right of appeal. In the official discourse on security in the U.S. voices were heard speaking with little restraint about the re-introduction of torture during interrogations. See also Prantl (2002).

³⁴ Hanser/Trotha (2002), 345-61.

³⁵ In the context of these observations and thoughts, it is of secondary importance if the plans of an American attack of Iraq are directly related to September 11 or if the decision to attack the Iraq was taken long before September 11.

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**BEYOND TERRORISM:
THE NEW TRANSATLANTIC DISENCHANTMENT**

Elizabeth Pond

In a workshop that seeks out historical comparisons the obvious question is whether the terrorism—then more often called anarchism—at the end of the nineteenth and beginning of the twentieth centuries caused the kind of strains among governments trying to counter it that we are witnessing today. Without having researched this period, I would say that my intuitive answer is no, for several reasons. As has frequently been pointed out, although there was extensive economic globalization then, the political globalization of today's instant communication did not exist—either for governments or for the disparate anarchists in the United States and Europe, who never formed the kind of global NGO networks we see today. Nor were the stakes as high, in that nuclear and other weapons of mass destruction did not exist; there was no risk that such apocalyptic power might fall into the hands of terrorists. And the United States, far from being the world's sole superpower that it is today, was a half-century away from having the Pax Britannica thrust upon it.

Today, it is all very different. I belong to the school of thought that sees the present transatlantic quarrels—not just over the proper response to terrorism, but certainly exacerbated by the differences since 9/11—as the worst falling out in the U.S.-European alliance in the past twenty-five years. Furthermore, I see the U.S.-German estrangement following the German election campaign in September 2002 as the most acute manifestation of this falling out. Because of history, there are of course peculiarities in the U.S.-German relationship. But at heart the problem is one of the overall U.S.-European relationship.

THE VIEW FROM THE UNITED STATES

The evidence that transatlantic strains are worse today than were past quarrels over burden-sharing or deployment of intermediate-range missiles or neutron bombs or chicken wars and may be seen in three aspects: the broad spectrum of today's disputes, the vitriol in the rhetoric,

and the surprising growing divergence in the self-definition, or self-identity, of the two sides of the Atlantic.

First, the broad spectrum of quarrels. In the past, however heated the debate and confrontation, the quarrels tended to be over single issues, or at most two or three questions at a time, not over a whole range of issues that reinforced each other and maximized ill will. Now the list of differences is long: the International Criminal Court, the Kyoto Protocol on curbing greenhouse gases, the series of weapons treaties on land mines, nuclear test bans, enforcement of chemical and biological-weapons bans, genetically modified foods (GMOs), privacy, the death sentence, abortion, the treatment of Scientologists in Germany, etc. Together, these disputes exacerbate each other. Moreover, they are reinforced by long-standing mutual disapproval of domestic social choices made on the other side of the Atlantic. The American political establishment, with some resonance in the public, is critical of what it sees as excessive social welfare, high labor costs that discourage entrepreneurs from creating jobs, and other rigidities in Europe's sluggish economies. Conversely, many in the continental European political elite are appalled by what they regard as callousness toward life's unfortunates in the United States—along with excessive violence, casual access to guns, the world's highest per capita prison population, and a racially-biased death penalty.

The second indication of the tension in today's transatlantic relations is the display of bad temper, especially in the disdain for Europe that one encounters in Washington. At the benign end, this is only a writing off of Europe, the conclusion that Europe doesn't matter any more and is simply irrelevant. In this view, America's allies are now the Latin Americans, as of fall 2001, or the Russians thereafter. At the more vitriolic end there is deep contempt for Europe. The word "contempt" is not my coinage. It surfaces again and again in interviews and conversations with State Department diplomats, National Security Council officials, and Congressional staffers. This attitude is especially pronounced among those senior Bush Administration officials who have channeled the thoroughgoing neo-conservative revolutions in such an un-European direction, but it is by no means confined to them. The outrage extends to numerous American career specialists in Europe who are multilingual and have lived in Europe for many years.

A few anecdotes illustrate this. One senior German editorial writer with a stellar pro-American track record came to interview National Security adviser Condoleeza Rice in spring 2002. As he was being escorted out of the office by someone he knew from the latter's earlier stays in Europe, he had his ears pinned back by the staff member's passionate, out-of-the-blue warning: Don't you Europeans tell us what to do! And don't think you're smarter than we are. Because you aren't!

Similarly, when the ebullient and impeccably pro-American Ludger Kühnhardt, Director of the Bonn Center for the Study of European Integration, visited a State Department section chief last summer, he was greeted at the door with a blast about what the Europeans are doing wrong, what a waste of time the regular U.S.-European Union summits are, and what a terrible job various European ambassadors are doing in Washington. (The only possible response, he related later, was to ask if he might be allowed to sit down anyway.)

Third, what journalists would call the "story line" now diverges sharply on the two sides of the Atlantic. For half a century we have proclaimed that the United States and Europe share the same values, and this is certainly true, in the fundamental sense of democracy, rule of law, and a market economy. What seems to be happening now, though, is that our particular social and political embodiments of these precepts are themselves being elevated to the level of fundamental values in many cases. As the German government's Coordinator of German-American Cooperation, Karsten Voigt, has often noted, the end of the cold war and the Soviet threat has relaxed our earlier compulsion to tolerate differences in our secondary values in view of our overriding common interest in the survival of our priority values. We now have the luxury of abandoning this tolerance. And the quarrels that then bubble up are particularly intractable because one side or both see these as matters of conscience—abortion, the death penalty, GM foods, the social net, and the like.

In the American story line, the identity of the United States is that of the city set on a hill. America is uniquely righteous, and uniquely justified in its policies because it has the best democracy in the world, and, along with it, the best absorption of foreign immigrants. Europeans, by contrast, are widely dismissed by American elites (if less so by the man on the street, the invaluable Chicago Council on Foreign Relations surveys

suggest) as rigid, weak, spoiled, pusillanimous, and free riders on America's provision of the public good of global security. And especially since the fusion of the American religious right and Jewish neo-conservatives in backing Israel's iron hand suppression of the second *intifada* and Palestinians who might be harboring terrorists, American media have regularly accused the Europeans of veiled or not-so-veiled anti-Semitism in their criticism of the Israeli tactics. (William Safire and Charles Krauthammer do so regularly in their columns; Antony Lerman and John Lloyd have analyzed the whole trend in *Prospect* and the *Financial Times* respectively.¹)

Since the U.S. system is the world's best, then, if the government elected by American voters decides on certain policies, these too are the best policies for the world, whether this involves the taken-for-granted extraterritoriality of the Sarbanes-Oxley bill on mandatory accounting practices in business, the effort to go beyond mere U.S. abstention from the International Criminal Court to pressure other countries to reject it, or the refusal to pay U.S. dues to United Nations programs in which any information is disseminated about abortion.²

Moreover, the United States is uniquely successful economically. Its productivity increase soars above Europe's.³ The United States was the motor for the extraordinary 1990s boom, and even after the bubble burst, the United States has continued to lead the world as the consumer of last resort. When U.S. stock exchanges plunge, European bourses plunge as well; when Wall Street makes a four-day rally, so do Frankfurt, London, and Amsterdam.

Finally, Americans know that they are uniquely powerful. Their smart munitions and real-time battlefield intelligence and management have raced so far ahead in the revolution in military affairs that few allies are well enough equipped technologically to fight at their side. Their annual dollar outlay for defense is double that of all European Union members taken together. Yet the September 11, 2001 felling of the World Trade Towers, followed by the still-unsolved anthrax attacks, shattered Americans' illusion of invulnerability and left the superpower with a volatile mixed feeling of omnipotence and vulnerability, as Pierre Hassner analyzes it—and with the perception of far more threats than the Europeans see. Europeans, having contained their own cults of domestic

terrorism in the 1970s and 1980s, might think that U.S. alarm is exaggerated, but Americans, swept up in their righteous war on the terrorist evil, feel that Europeans willfully underestimate the dangers of fanatics' acquisition of weapons of mass destruction.

The United States now acts in the world in what Defense Secretary Donald Rumsfeld calls a "forward leaning" way and what Robert Kagan famously calls a tough "Hobbesian" approach, as against the timid "Kantian" approach in Europe. While purists may dispute this interpretation of Kant, the distinction has become a fixed reference in the discourse since Kagan published his essay on "Power and Weakness" in the June/July 2002 issue of *Policy Review*. In the 1990s Immanuel Kant's eighteenth-century theory of a liberal peace metamorphosed into a twentieth-century theory of peace between democracies, as articulated most thoroughly, perhaps, by Michael Doyle in his *Ways of War and Peace*.⁴

Whether or not a position of hyperpower, in the French formulation, necessarily leads to a propensity to armed Hobbesian intervention in international affairs, while lack of power leads to aversion to the use of force, as Kagan postulates, it is certainly true that Europeans emphasize international norms, rules, and laws as binding on all players, including Western industrialized nations, while the Bush administration eschews such constraints on its own actions. Ideological gladiator John Bolton, U.S. Under Secretary of State for Arms Control and International Security, articulates this spirit most forcefully, though he rejects the vocabulary that others on the conservative right accept proudly in describing the United States as the world "hegemon" that can and should act unilaterally.⁵ At the other end of the political spectrum Harvard's Michael Ignatieff tries to make sense of lonely superpowerdom in terms of American leadership of a "liberal empire" in the world.

One final element in America's sense of power derives from Washington's military and economic clout, but goes beyond it. That is the extraordinary U.S. capacity to set the global agenda. If the Bush administration decides it will deploy a missile defense system, then after a few months, opposition to this program evaporates around the world. If the United States decides to torpedo the ICC, the Europeans eventually give in on this too.

THE VIEW FROM EUROPE

The European story line is quite different. After millennia of wars at least every other generation, the Europeans see themselves as having finally created the miracle of peace in their once war-prone heartland—not least through the benign intervention of the United States in World War I and II and the Marshall Plan, of course.⁶ Between 1945 and the 1990s a chain reaction of reconciliation succeeded so thoroughly that today younger Germans and French simply cannot comprehend how their grandparents ever considered each other arch-enemies; Dutch who originally protested to Princess Beatrix's marriage to a German came to mourn the death of their beloved Prince Claus in 2002; Poles flock to seek jobs and education in the Berlin most of their parents despised; and younger Ukrainians, despite Polish-Ukrainian butchery that continued even after World War II, see rapidly modernizing Poland as an attractive model.

This new European spirit also solved the centuries-old “German question”—the problem of how to integrate the numerous and energetic Germans in peace with their neighbors. In the half-century after World War II no country was keener than Germany on reconciliation and the progressive subordination of a national to a European identity. Timothy Garton Ash dissents somewhat from this view in making the strong case that the Federal Republic consistently pursued its own interests, all the while invoking “Europe's name.” Yet the obverse of this has to be that all along the self-definition of enlightened German interests has been remarkably pro-European.

If you think back a dozen years, you will recall that as the Berlin Wall fell, such sober analysts of the cold war as John Lewis Gaddis asked if reconciliation and the kind of cooperation institutionalized in the European Community (and, implicitly, the taming of Europe) could possibly survive in the post-cold war era. Weren't both the Soviet threat and the offshore American balancer necessary to keep the squabbling Europeans from returning to the history of dog eat dog, of all against all? Wasn't cooperation just an ahistorical emergency reflex?

Well, as we now know, the answer was no. European cooperation was not just a temporary aberration. However cumbersome the process

of reaching an enabling consensus over X, Y, or Z problems, working together turned out to have become a habit in the almost half century of the cold war.

Probably the seminal conceptualizer of this remarkable shift in the European self-image was Robert Cooper.⁷ At the time his study was published, Cooper was the deputy head of mission in the British Embassy in Bonn; currently he is adviser to the EU High Representative for Foreign Policy, Javier Solana. Cooper divided states into three categories: pre-modern (the Afghanistans and Iraqs of this world); modern (nationalist nation-states like the United States, China, and Russia); and post-national (primarily the members of the European Union, with Germany as the most enthusiastic and France and Britain as more reluctant examples). His measure of the transformation is the degree of meddling by others in one's own internal affairs that is not only permitted but also actually institutionalized. Each EU member sees itself as too small to cope alone with today's problems, whether pollution or immigration or capital flows. They have therefore decided to "pool" their sovereignty—that verb would never replace the negative concept of "surrendering" sovereignty in the American vocabulary—in order to gain more control of their fates by working together. The EU has told the French to pasteurize their cheese and told the Danes to increase the size of their favorite little apples if they want to sell these items in the Common Market. Most remarkable of all, perhaps, the European Court of Justice has arrogated to itself the right to overrule national laws that contravene EU law—and though the court has no enforcement arm of its own, European governments enforce ECJ rulings, even when they dislike them.

THE NEW PREDICAMENT SINCE 9/11

The two very different transatlantic standpoints are graphically summed up in two recent magazine covers. On the front page of the October 14 and 21 *New Yorker*, the immigration control desks at an airport are divided into three lines: U.S. Citizens, Non-Citizens, and Eurotrash. The first two lines are indistinguishable in their backpacks, briefcases, and sports shirts. Only in the third are the hedonistic black-clad Eurotrash males sipping wine and dallying with longhaired blondes in black cocktail

dresses. For its part, *Der Spiegel* of September 30, just after the German election, features photos of George W. Bush and Gerhard Schröder in identical politicians' postures with a violent rip down the middle showing the rupture of "German-American friendship."

So much for why I judge U.S.-European relations to be at a quarter-century low. Let's go on to look specifically at transatlantic relations since 9/11.

Structurally, perhaps, what 9/11 triggered was an adjustment to the new post-cold war realities. The United States is now more powerful than any state in the world since the Roman Empire—and is probably even more powerful than Rome ever was. If the twentieth century was the American century, then the new millennium has opened as the super-American century. 9/11 woke the sleeping giant, frightened and angered Americans sufficiently for them to forget their post-Vietnam aversion to shedding the blood of a single American soldier, and unite behind their war president. With this overnight shift, President Bush acquired a full military, economic, and psychological instrument to wield for focused purposes.

His first stated purpose (which was not achieved) was to capture or kill the Saudi mastermind behind the 9/11 attacks, Osama bin Laden. His second purpose, which succeeded brilliantly, was to compel Pakistan to disavow the Islamic extremist fanatics on its soil to deprive them of a safe haven, and then to rout al Qaeda and the Taliban from Afghanistan by matching the smart munitions of round-the-clock aircraft with ground spotters armed with laser wands and Pashto phrasebooks.

The wave of instant European sympathy for the United States arched from *Le Monde* ("Nous sommes tous américains") to NATO (branding this attack on the United States, under Article 5, as an attack on all alliance members) to Berlin (a spontaneous demonstration of a hundred thousand at the Brandenburg Gate, and Schröder's pledge in the *Bundestag* of "unlimited solidarity" with the United States). As the weeks went on, there was appreciation as well of Bush's initial rejection of an attack on Iraq that administration hardliners were promoting—and of the president's gesture in meeting with Islamic leaders in the United States to assure them that Washington did not equate the war on terrorism with a war on Islam and a clash of civilizations. There was, in addition, admiration of

America's spectacular success in forcing on the Pakistanis the hard choice of being either for or against the United States, for toppling al Qaeda and Taliban thugs, and for deflecting an Indian-Pakistani nuclear clash over Kashmir.

From the beginning, though, Europeans were uneasy about the Bush administration's black-and-white view of good and evil, and monopoly on decisions about responses to that evil. They had misgivings about American rejection of NATO allies' assistance and therefore constraints (except for five AWACS aircraft to patrol American skies and free their U.S. counterparts for missions in Asia). They were shocked by Under Secretary of Defense Paul Wolfowitz's blunt warning to them in early 2002 that from now on the mission would determine the coalition in any American military operation, not vice versa. The clear subtext was that after half a century the transatlantic alliance they had thought would be immutable was in fact dispensable. And to make matters worse, as British Prime Minister Tony Blair basked in the revived Anglo-Saxon special relationship and other Europeans leaders jostled one another for their individual invitations to the White House, pretensions about a Common European Foreign and Security Policy evaporated. Misgivings grew as Bush gave his "axis of evil" speech in early 2002 that hinted at possible unilateral U.S. military action against Iraq, North Korea, and Iran. The inclusion of Iran in this trio troubled them especially, since they believed that the clear desire of the younger generation to modernize Iran and move away from theocracy toward Islamic reformation could better be nurtured by dialogue, and that confrontation would only strengthen hard-line ayatollahs.

These things were more or less dormant until summer 2002, when Iraq returned to center stage. Americans and Europeans alike agreed that President Saddam Hussein was a megalomaniac threat to his regional neighbors as well as to the Iraqi people themselves. Europeans thought, however, that in the decade since the first Gulf War, the containment of embargos, no-fly-zones in Iraq, and periodic bombardments by American and British planes had effectively deterred Hussein from any repeat use of chemical weapons or acquisition of useable nuclear weapons. They were given no evidence by the United States of a direct link between Iraq and terrorists and saw no urgency in incurring the enormous risks of an

invasion of Iraq in 2002. Intelligence reports seemed to indicate that Iraq, while it was working hard to acquire nuclear weapons, was still several years away from getting the needed materials, and could be kept that far away in the future.

The dangers, they held, were that an attack on Iraq could lead to the breakup of this keystone Arab country, with Iran taking control of parts of the south and Turkey taking control of Kurdish territory to the north. Particularly if an invasion were conducted with the Israeli-Palestinian confrontation still at a boil, they reasoned, the result could be destabilization of the entire Middle East. They found unrealistic the American expectation that democracy would naturally replace Hussein's tyranny in Iraq and start a wave of democratization in the region. Moreover, with militants gaining in Pakistani elections, they worried that an attack on Iraq could increase anti-American and anti-western anger in the Islamic world and give fundamentalists access to Pakistani warheads that are no hypothetical future nuclear weapons, but existing hardware already set on a hairtrigger.

The uniformed American military and several foreign-policy stalwarts from the administration of the senior President Bush seemed to share these concerns; in summer various opinion columns and leaks of military plans in the U.S. media raised circumspect but pointed questions about administration intentions in Iraq. One-time National Security Council adviser Brent Scowcroft was among the questioners, and so, in his own more ambiguous way, was former Secretary of State Henry Kissinger.

And then at the end of August Vice President Dick Cheney counterattacked, with a tough speech calling for invasion of Iraq, not on grounds of ties with terrorists or proven acquisition of nuclear weapons, but rather on the grounds that this nasty regime must simply be changed. With this, the new American strategy of preemption that had recently been announced took on concrete form. For European listeners the question arose how many regimes Washington might decide, unilaterally, needed to be changed, and how long American patience would last during the long reconstruction period after such changes.

Suddenly Iraq was again on the agenda. And Schröder was going into the last three weeks before an election the polls indicated he would most likely lose.

Iraq had not been an immediate issue during Bush's most recent visit to Germany in May, and there are differing accounts of the understanding the two men reached then to keep the Iraq question out of the German campaign. Bush administration officials say Schröder promised to keep it out of the hustings; Germans say they were not primed by the Americans to expect any imminent decision about an invasion of Iraq that would require them to take a position.

Whatever the truth here, the Cheney speech hit a raw nerve in Germany. From its inception in 1949 on, the Federal Republic was trained, especially by the occupying Americans, not to glorify the military, but rather to eschew any resolution of disputes by force. So swiftly and thoroughly did West Germany internalize these lessons that founding father Konrad Adenauer already had to fight a major political battle to reconstitute a German army in the 1950s. Germans as a whole prided themselves on being a model "civilian power." And on the left, the conviction of the righteousness of non-violence was only reinforced in the 1960s and 1970s as the American anti-Vietnam War movement spread to Europe. At that point something of the conviction of German cultural superiority over the Anglo-Saxon world's mere civilization that had characterized conservative German intellectuals in the late nineteenth and early twentieth centuries migrated to German intellectuals on the Left to shape a certain cultural anti-Americanism.

After the Berlin Wall fell and Germany was unified, all voters expected a peace dividend. East German voters in particular expected this bonus. The second thing they had envied in gazing at West Germany during their own decades in thrall to the Soviet bloc—after the casual prosperity they saw every night on West German television—was the security and peace that western Europe enjoyed.

Given this starting point, the Federal Republic evolved with astonishing speed in the 1990s in its willingness to join allies to use force abroad. The first crack in the conviction of the superiority of peace over war under all circumstances appeared during the Gulf War of 1990/91. In the flurry of German and American media attention lavished at the time on white sheets hung out to protest against the American-led war and on the underground refuge granted by some Germans to the two or three GIs who deserted from U.S. forces in Germany, the far more

significant split in the left “milieu” in Germany went largely unreported. What caused the split was the dispute about whether or not the Left’s reflex championing of the Palestinian cause was covert anti-Semitism. When Iraq fired Scud missiles on Israel, it triggered pangs of conscience among Germans who had sought to do penance for the Holocaust by supporting Israel wholeheartedly in the years since 1949. For the first time in the “milieu,” doubt was now cast on the absolute morality of opposing all wars; a competing moral mandate to defend Israel (and, as the Balkan wars raced out of control, to stop atrocities by local bullies there) challenged the two-decade-old certainties on the Left.

Ironically, it was Schröder who pushed this shift the farthest. In his four years in office, he performed a “Nixon in China” switch in military affairs. He first made his name as a Young Socialist leader in the anti-Vietnam War days of the ’68 rebels. His Social Democratic Party was vehemently anti-military and sought to keep the creeping *Bundeswehr* engagement abroad in the 1990s at the lowest end of the spectrum of Petersberg tasks, with peacekeeping rather than peacemaking. Yet with the Serbian massacre of Bosnian men at Srebrenica still fresh in memory, when Serbian strongman Slobodan Milosevic stepped up his bloody campaign to drive ethnic Albanians out of Kosovo in the first year of Schröder’s government, Schröder and Green Foreign Minister Joschka Fischer persuaded their reluctant parties to vote for German military engagement in robust Kosovo peacekeeping, even without the authorization of a United Nations Security Council mandate. At a Green party convention Fischer made an impassioned plea to hostile delegates, saying that for all of his political life he had had two principles: “no more war,” and “no more Auschwitz.” When these precepts conflicted, he declared, he had to choose “no more Auschwitz.” He won the Greens’ backing, with a narrow majority. The *Bundeswehr* took over a sector in southwestern Kosovo and in its first days there shot a Serb who refused to obey an order to stop, thus, willy-nilly, establishing its credibility. The Germans quickly became favorites of Kosovar Albanians for their vigorous patrolling of streets, enforcement of curfews, and civil affairs construction. Subsequently, Schröder and Fischer also committed German troops to United Nations peacekeeping operations in East Timor. And after 9/11 Schröder even put his own office on the line in a touch-and-go

vote of confidence in parliament to send German forces into combat—for the first time since World War II—alongside U.S. and British troops in eastern Afghanistan. The Germans further contributed substantially to the ISAF peacekeeping forces in Kabul and eventually agreed to take over the ISAF command jointly with the Dutch in the first half of 2003. By autumn of 2002 Germany had some 10,000 forces abroad, a number second only to the U.S. superpower, in a remarkable turnaround that no observer would have believed possible a decade, or even a year, earlier.

Iraq, however, was a war too far for the beleaguered chancellor seeking reelection. When he told a campaign rally that he would never send German soldiers to participate in any “adventure” in Iraq, he was expressing both the aversion of many Europeans (including many Labour backbenchers in Westminster) and a visceral German fear of getting dragged into a messy war.

This was a serious policy issue for Germans, and Schröder and other Social Democrats expressed their opposition to any German engagement forcefully. The Federal Republic, they said, would not participate in any intervention even if there were a UN Security Council resolution authorizing it—an inconsistent position for a German government that had always insisted on the legitimacy of the Security Council in authorizing any military intervention. Schröder’s challenger, Edmund Stoiber, was far more nuanced in implying a similar position to Schröder’s, while sharply criticizing the chancellor for reducing the American pressure on pariah Iraq at a time when the greatest possible pressure was needed to force inspections on Saddam Hussein.

With his uncompromising stance, Schröder forfeited any chance of influencing American policy. Unlike French President Jacques Chirac, he left no room for coaxing a more multilateral approach to Iraq out of Washington by setting tactical conditions and then negotiating an in-between position.

In terms of bilateral U.S.-German relations, worse was to come. In a campaign speech in Rostock Schröder advocated a “German way.” In the context he was referring to domestic economic and social policy. But the phrase immediately awoke the old ghosts of a German *Sonderweg*, or special way, between East and West. It was understood in Washington as a summons for German defiance of American foreign policy. And

even this was trumped by an *ad hominem* campaign aside by then Justice Minister Herta Däubler-Gmelin that compared Bush's focus on the Iraq issue during his own mid-term election campaign with Hitler's pursuit of war as potent diversions to draw voters' attention away from domestic economic woes.

Just how much resonance this stance on Iraq actually carried with the electorate is not clear. In the American media it has been accepted as a matter of faith that the Iraq appeal tipped the balance. Yet the analysis of voters' priorities in issues by the respected *Forschungsgruppe Wahlen* gives no hint of this. The polling agency found that some 46 percent of voters opposed German participation in any war on Iraq in general—but 50 percent approved participation if there were a UN mandate. More significant was the low salience of the issue. Unemployment was the overwhelming concern of 82 percent of voters; issues of terrorism and war ran far behind, at 15 percent.⁸ Moreover, far from setting off a popular wave of anti-Americanism in Germany, Schröder's *ohne mich* (without me) stand elicited popular consternation. The chancellor was criticized for isolating Germany from its EU allies, and especially—for the first time in the half-century existence of the Federal Republic—for isolating Germany from the United States that for decades had been Germany's patron. Here too a personal anecdote captures the mood; a German acquaintance I had not seen for four years tracked down my new telephone number in Berlin, called me to express her distress, and said that her mother was sitting at home crying, because—in reference to American help for Germany when Schröder grew up in a poor single-parent family after World War II—“if it weren't for the Americans, Schröder wouldn't even be here!”

The *Forschungsgruppe Wahlen* survey does not differentiate between East and West Germany in the war-and-peace issue in the campaign, and it is possible that the key constituency Schröder appealed to in East Germany responded much more strongly than did West Germans to pacifist hopes. This remains an unproven hypothesis, however. The alternate explanation that East Germans' gratitude for Schröder's well-publicized help in coping with late summer floods in the region is at least equally plausible. And so is the further explanation that the Social Democrats' rival of the east German ex-communist Party of Democratic

Socialists (PDS)—which collected protest votes in the early and mid-1990s—could no longer pose as the total outsiders promising utopia. Ten years after the fall of the Berlin Wall the PDS had shared responsibility in enough *Land* coalition governments in eastern Germany to have its own track record of disappointing voters.

Whatever the real causes, Schröder was indeed reelected. And not only did the Social Democrats bury the PDS; they (along with the Conservatives) proved once again that the extreme right has no appeal in federal German politics. Votes for anti-foreigner parties were negligible. There is no German Jörg Haider, Jean-Marie Le Pen, Pim Fortuyn, or Christoph Blocher.

If Schröder's no-war appeal had only a dubious impact in Germany, however, it had a major impact in Washington. President Bush pointedly did not congratulate Schröder on his reelection; the chancellor was not invited to Washington; Defense Secretary Donald Rumsfeld ostentatiously froze out his German counterpart at NATO meetings; even the normally welcome Foreign Minister Joschka Fischer, on his first post-election trip to Washington, was barred from seeing anyone other than his protocol counterpart, Secretary of State Colin Powell. Defense Department adviser Richard Perle publicly called on Schröder to resign.

The frost was partly personal, partly a matter of policy, partly a reflection of the historical modesty still expected of Germany. By all accounts, President Bush lays as much importance on personal loyalty in foreign as in domestic relations; after 9/11 all the wag-the-dog jibes that proliferated in President Bill Clinton's time are no longer tolerated—especially when they are overlaid with comparisons to Hitler. The Bush administration wanted Schröder to fire Däubler-Gmelin immediately, days before the German election; when Schröder refused and fired her only after the election, Washington held this too against the chancellor. It has been made clear to Berlin that, as one senior German official put it, while Bush considers Russian President Vladimir Putin a man he can trust, he deems Chancellor Schröder a man he cannot trust—and that this estrangement will not be mended as long as George W. Bush occupies the White House.

In this episode several adjustments to post-cold war realities converged. Structurally, the world's sole superpower asserted its unilateral

right to determine its own military operations abroad. In future, the mission's requirements will decide the coalition, and, given geographic facts, will probably favor very undemocratic governments in Central Asia and the Middle East. The old European alliance of democracies will enjoy no privileged position out of sheer nostalgia.

In terms of international law, the old sanctity of national sovereignty is being further eroded. The fierce debate about this issue during the Kosovo war is history. The conjunction of failing states, the international al Qaeda terrorist network, the potential availability of weapons of mass destruction to free-lance suicide bombers, and the vulnerability of modern cities are voiding the concept of sovereignty today s much as the new sensitivities to piracy and the slave trade voided the inherited consensus on the law of the seas in the nineteenth century.

Finally, Washington has demonstrated that it is the world's alpha male. Among other things, Bush administration officials saw their disciplining of Schröder as a useful object lesson for others. The episode had a salutary effect in encouraging rhetorical restraint in the Brazilian elections at the time, they pointed out. Subsequently, a Canadian official who called Bush a "moron" was fired—and the BBC pulled an ad that demeaned the American president.

In fall of 2002, then, all signs suggest that the transatlantic strains that became acute in the wake of 9/11 will remain acute for a long time to come.

ENDNOTES

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⁶ Michael Howard, *The Invention of Peace* (New Haven: Yale University Press, 2000); Paul Johnson, "World War II and the Path to Peace," *Wall Street Journal Europe*, 8 May 1995, 6; Pierre Hassner, "Beyond the Three Traditions: The Philosophy of War and Peace in Historical Perspective," *International Affairs*, 70:4 (October 1994).

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**WAR AND TERROR:
U.S. PERSPECTIVES AND POLICIES**

Thomas A. Keaney

This paper examines the perspective of the United States as it has confronted the threats to its national security exemplified by the al Qaeda attacks of September 11, 2001. In particular, the paper identifies factors guiding U.S. policy that have created increased estrangement between the United States and countries of Europe. The subject deserves attention because despite a wealth of mutual interests between the United States and the countries of Europe, many see relations between them at their lowest point since the 1930s. In the aftermath of the events of September 11, 2001, Europeans showed great sympathy for the losses incurred by the United States and pledged support in what seemed a common cause. As the United States began to assess the threat to its national security, however, the United States and Europe found themselves engaged in an exchange of recriminations about arrogant U.S. leadership, feckless European attitudes, and a host of other complaints that point instead to a fracturing of the U.S.-European partnership. What started as differences in perspective on the nature of what the United States has termed the “war on terrorism” has moved on to the more central issue of the continued relevance of the Atlantic Alliance itself and of U.S. leadership. Europeans wonder whether the U.S.-European solidarity engendered by of the cold war is now at an end. Americans worry that Europe either does not see the threat to western institutions or does not have the will to combat it. Both views call for more definition and perspective.

A first task is to identify the basis of the fracture, and there is more than one candidate. If one dates the fracture from September 11, the issues involved grow from how the United States has pursued the “war on terrorism.” The United States decision to leave its NATO allies behind in its initial military operations in Afghanistan, President Bush’s identification of an “axis of evil,” and the perceived pro-Israeli U.S. position and pro-Palestinian European position provide ample reasons for a transatlantic division. The date can be moved back earlier, to the beginning of the Bush administration and its initial policies. The rejection of the Kyoto treaty and the decision to withdraw from the ABM Treaty,

among other initiatives, signaled to Europe what was perceived as either a move to U.S. unilateralism or even isolationism. The roots can also be traced to the end of the cold war itself, when the removal of the Soviet threat took away one of the prime reasons for the Atlantic alliance. Subsequently, the 1990s saw U.S.-European disagreements over intervention in Bosnia and later Kosovo, as well as the entire question of NATO's continued role in the world.

Citing an event or a new set of conditions as the basis of the disaffection could indicate either a division that will be temporary and will heal over time, or one that could also result in a permanent break based on more fundamental differences. Most often mentioned recently in these discussions is the analysis of Robert Kagan, who sees the division as deep, long developing, and not easily changed. He portrays the differences as being rooted in how the United States and Europe see the world and conduct foreign policy. In Kagan's view, both the United States and Europe have changed. In his view, Europe in the past half-century for many reasons has developed a set of ideals that discounts the utility of power, while in that same period the growing power of the United States has led it to rely more heavily on force and unilateral actions.¹

While significant differences separate Europe and the United States, those disparities are of particular consequence only to the degree that those differences have actually changed or become more pronounced. In other words, new factors must be shown to be at work in order to explain why the U.S.-European relationship changed from a time of relative harmony, the period of the cold war, for instance, to what is reflected today. The first task, then, is to discover what is new from what is not so new. Let's start with what is not new. Namely, since the time of the founding of the Republic in the eighteenth century or earlier, Americans have had distinctly different views in their approach to the conduct of warfare from those held by Europeans.

PREFERENCE FOR TOTAL VICTORY

The American approach to warfare strongly favors a strategy of achieving total victory, total meaning complete defeat of enemy forces and pursuit of unlimited war aims. American military historian Russell

Weigley sets out this principle to describe what he terms the U.S. preferred strategy of annihilation, that is the complete and direct overthrow of an enemy's military power.² John Shy, in his summary of American behavior during its first two centuries, cites military attitudes that consider military security not in relative but in absolute terms—either great danger or total security—and extreme optimism of what could be achieved by military force—a belief in total victory.³ Attributed by some to the American frontier experience or to geographical circumstances that permitted such beliefs to develop, American military history shows a strong preference for fighting to complete victory: until the British had left the colonies, until the Confederate states surrendered and rejoined the Union, until total victory in World War II. Those cases that did not conform to this model, World War I and the Korean War, for instance, were seen as reaching unsatisfying conclusions. The Vietnam War, of course, represents the extreme case.

Fighting to complete victory meant wars fought as crusades in which negotiated settlements represented not partial success but a failure to attain the ends sought. In this vein, the unsatisfactory experience (from the United States perspective) of World War I played a role in Roosevelt's declaration of fighting until "unconditional surrender" in World War II. The results of the Gulf War, 1990-1991, demonstrate both of these tendencies. Immediately after the cease-fire in March 1991, the United States believed it had gained an unconditional victory and celebrated that at last the demons of the Vietnam War had been exorcised. Later in the 1990s, however, with Saddam Hussein still in power and continuing to defy the agreed terms that ended the war, Americans came to see the war as a failure in strategy, and these impressions have fueled much of the desire in the United States for a regime change in Iraq.

The same drive for complete victory also affects United States foreign policy. Just as wars have been crusades, U.S. foreign policy goals are stated in altruistic terms and treated as principles, not preferences. No better example of these phenomena exist than Woodrow Wilson's call for an end to the balance of power concepts and the *Realpolitik* of the European powers at the conclusion of World War I. As Henry Kissinger pointed out, Wilson (and Americans) saw peace as a legal concept, not the result of a balance of power, and that peace could be best ensured

through enforcement by an international organization, the League of Nations.⁴ Wilson's disappointment in that first experience did not prevent Franklin Roosevelt and Harry Truman from setting forth a similar initiative following World War II under the United Nations charter and the principle of collective security. In the years since, the United States has accepted the balance of power concept but still retains its adherence to ideals higher than simply declaring an objective as its own national interest. Current documents still convey these sentiments of high purpose. For instance, President George W. Bush's national security strategy document states that

America must stand firmly for the nonnegotiable demands of human dignity: the rule of law; limits on the absolute power of the state; free speech; freedom of worship; equal justice; respect for women; religious and ethnic tolerance; and respect for private property.

And, when requirements dictate, military action will aim for total victory:

The purpose of our actions will always be to *eliminate* (my italics) a specific threat to the United States or our allies and friends. The reasons for our actions will be clear, the force measured, and the cause just.⁵

FREEDOM OF ACTION IN CONDUCTING WARFARE

Along with a preference for total victory in war, the United States has demanded freedom of action in conducting warfare, a tendency that has guided the U.S. approach to coalition warfare. From the American Revolution until the Twentieth Century, in fact, the United States avoided participation in alliances or coalitions as a matter of policy.⁶ Even in World War I, the United States insisted on its status as an "associated power," careful to keep its independent voice both during and subsequent to the fighting. In World War II, the United States, under the leadership of President Franklin Roosevelt, reversed its policy on alliances. That war can be viewed as a transition from a period of no alliances to the post-World War II era during which the United States sought to create

alliances or war-time coalitions whenever possible. The most significant: NATO, alliances with South Korea and Japan, and United Nations coalitions in the Korean War and the 1990-1991 Gulf War.

Though these organizations varied tremendously in form and purpose, in every case the United States operated as the single indispensable country. In some instances the United States' nuclear umbrella established that preeminence. In others, it was the weight of effort provided. Through these experiences the United States developed the expectation of having the decisive vote within the coalition on both how and when to conduct military operations. Within NATO deliberations that preeminence was often muted within political relationships that relied on consultation and mutual agreements, but it was there nonetheless. The dominant role exercised by the United States can be seen more clearly, however, in wartime conditions, when rapid, often high-risk decisions were required.

In the Korean War, the United States led a coalition of United Nations forces, including many from Europe, but the U.S. decision-makers maintained near total control of the war. In part, this control was based on the numbers of forces involved. Except for the South Koreans, American forces comprised the bulk of the UN army, and the South Korean Army was organized and trained by the United States. Though working through the apparatus of the United Nations, U.S. decision-makers made all strategic and operational military decisions in the war. For the European members of the coalition, their voices in the war were extremely limited. Most were NATO or prospective NATO members whose opinions were influenced heavily by their desire to obtain U.S. commitment to NATO and thus had no interest in antagonizing their alliance partner.

The United Nations coalition in the Gulf War had a more complicated command structure, but here again, the United States held the decisive position. The "dual command" command structure allowed for the Saudis to maintain the outward sign of political leadership necessary for its Arab allies. Within the structure, however, the American leadership ruled. The air and ground campaigns were entirely of U.S. design. Some allies, such as the British, were allowed to have representatives on the planning staffs, but the strategic conduct of the war, the targeting, the timing, and the operational level execution were firmly in U.S. hands, including the

ceasefire negotiations at Safwan. For the United States, that model became the expectation for all such conflicts.

Along with U.S. dominance, the nature of coalitions came to be seen in a new way. Historically, alliances and coalitions had served to maximize military power of the member states. Coalitions would endure the limitations engendered by the political factors involved, such as differing objectives or complex command arrangements, in order to attain the military benefits. As became evident in the Gulf War and in subsequent operations, those conditions were reversed: the United States sought coalitions for their political, not their military advantages. Other countries' armed forces became included, sometimes in ways that optimized military power, in order to attain the "political cover" necessary. For instance, the inclusion of Syrian and some other of the Arab forces in the Gulf War and of Russian forces as peacekeepers in the Balkans provided little if any military benefits. Under these conditions, under which countries provided politically desirable but not militarily necessary forces, the United States came to view allies as being there to lend political support, but with no claim to a vote in the military operations.

DISPUTES DURING THE BALKAN WARS

With such expectations of leadership, the United States and its European allies engaged in a number of clashes of wills in the 1990s while involved in the Balkans. For these actions, the Europeans were far from willing to allow the United States the kind of free hand given it in the Gulf War. The use of air power to control the actions of Croats, Muslims, and Serbs in Bosnia in 1994 and 1995 became one of the most critical cases. Here, the United States, with no ground forces deployed, argued for an increased level of air attacks in order to restrain the combatants, in most cases the Serbs, from attacking the UN peacekeepers. The Europeans, particularly the French and British whose forces were in fact these UN peacekeepers, stood sharply at odds with U.S. policy. Those tensions played out within NATO, based on European resentment of the aggressive approach of the United States to bombing while it was European forces, not American, who were at risk on the ground. Throughout 1993 and until a Bosnian settlement in the fall of 1995, the

use of air power became the subject of intense disagreement and the cause of often-severe alliance disunity. Disputes arose over criteria for authorizing air strikes in Bosnia, disputes magnified by the complex decision-making apparatus in place that involved both United Nations and NATO command organizations, a system so complicated that it may by itself have precluded any effective action. A settlement of the Bosnian conflict came following a short air campaign, Operation Deliberate Force, that saw more direct attacks on Serbian forces, but the overall impact of these experiences left the United States with a great mistrust of shared decision-making in these applications of military force. For the United States, it was reminiscent of its unhappy experiences with gradualism and targeting restrictions in the employment of air power during the Vietnam War.

The air operations over Yugoslavia in 1999 (Operation Allied Force) involved similar issues to those faced in 1995 and became a further point of dispute concerning America's attempt at coalition dominance. Put briefly, the United States sought to duplicate the freedom of action it experienced in the Gulf War (Desert Storm) and to avoid the restrictions encountered in the 1995 (NATO's Operation Deliberate Force). Neither was accomplished. Allied Force, conducted by the NATO command structure, inevitably encountered far more difficulties involving coalition leadership than did the Gulf War, and the extended length of the air campaign, from March until June 1999, presented many opportunities for disputes than did the several days of Deliberate Force.

During the Kosovo conflict, the U.S. military leadership faulted the coalition command arrangements for preventing the effective use of air power. Cited were the constrained rules of engagement by which certain countries (France was particularly cited) restricted targeting whole categories of installations because of the political sensitivities involved. The U.S. critics protested that the resulting air campaign suffered from the same gradualism incurred during the much of the Vietnam War and with the same unsatisfactory results. In addition, the Pentagon suspected that some NATO members were leaking details of the air operations to the enemy. As a result, the Pentagon withheld from the NATO commanders information on the sorties of its most high value assets (B-2, F-117s, and cruise missiles) to prevent such leaks.⁷

When Slobodan Milosevic acquiesced to NATO's demands in June, 1999, bringing the air campaign to a successful end, much of the earlier criticism became muted, but definite lessons learned emerged in after-action reports and more subtly in subsequent U.S. actions. In addition to complaints of unwieldy command and target approval arrangements, the United States cited the disparity between Europe's rather minor contributions of forces to its desired role in decision-making. For example, of the total NATO force, United States aircraft flew over 60 percent of the total sorties, over 80 percent of the strike sorties, and over 90 percent of the intelligence and reconnaissance sorties. Moreover, U.S. aircraft accounted for over 80 percent of the precision-guided munitions used, a telling statistic that pointed to the limited capabilities of the European powers to engage in modern air warfare. Simply stated, European aircraft for the most part lacked not only the advanced weapons, but the secure communications, advanced sensors, and associated technologies needed to conduct the sophisticated air operations on any near-equal level with the United States.

In the fall of 2001, when the United States undertook its air operations against the Taliban and al Qaeda forces in Afghanistan, it remembered these lessons. Though several European countries volunteered assistance and aircraft for this campaign, the United States chose essentially to conduct air operations unilaterally at the outset of the campaign. That reluctance was no doubt linked to the Kosovo experience: understanding that European aircraft lacked critical capabilities and seeking to avoid a "war by committee" in the target approval process. Later in the course of the campaign, more allies added military units, particularly special forces, but the inclination of the United States for unfettered control of the war fighting could not have been clearer.⁸

To sum up, the United States has throughout its history framed its foreign policy based on altruistic principles and a search for decisive victory in wars that have made it resistant to cooperative, or negotiable, undertakings with other countries. When the United States did plunge into alliance/coalition politics during and after World War II, it did so while insisting on leadership commensurate with its superpower status. During the cold war, the United States for the most part operated comfortably within the NATO structure of decision by consensus, but

conditions allowed the time for negotiations and diplomacy in arriving at those decisions. While engaged in coalition/alliance warfare, however, such conditions usually do not exist. Fortunately, NATO did not have to actually fight the Soviet Union, so the alliance's consensus decision-making was never tested. Warfare inevitably calls for rapid, often high-risk decisions, and in those conditions, the United States has sought a free hand. Those tendencies are deeply rooted in the American experience and do not simply reflect the particular circumstances now present or the governing style of the Bush administration.

THE IMPACT OF HIGH TECHNOLOGY

More recently, the lure of high technology solutions has also affected the U.S. approach to the use of the military force. Since at least the time of the Gulf War, the ability to employ precision weapons, advanced sensor and stealth technology, computer-enhanced equipment and an array of new information systems have allowed the United States to conduct a style of warfare that many have called transformative. That transformation has allowed a coalition under U.S. leadership to pummel Iraqi forces for thirty-eight days of an air campaign and permit a rapid four-day sweep by ground forces, all with, by any contemporary measure, exceeding low coalitions casualties, either on the ground and in the air. Later campaigns against Serbia in 1999 and Afghanistan in 2001-2002 provided even more definitive signs of this new type of warfare.

Not only have the new technologies transformed styles of warfare, the United States has in the process achieved special status in its execution, since it alone can make full use of these new technologies. Many countries have made use of precision weapons and other technologies, but only the United States has had the resources to develop the full complement of stealth aircraft, precision weapons, electronic warfare systems, and the information technology and intelligence systems needed.⁹ With this singular capability, the United States can essentially make war at long range, destroying targets on the ground without serious risk to its own aircraft, and in the process change the stakes involved for itself in going to war. Previously, the United States had stated its willingness to engage in combat only in circumstances that involved vital U.S. interests. In

1999, however, the United States expanded these conditions to include those of protecting the rights of the Kosovar Albanians, never cited as a vital U.S. interest. Obviously, the low cost of such involvement drove that change.

U.S. willingness to engage in low cost (in terms of casualties to its own forces) military operations has had other consequences. First, this capability has reinforced the historical U.S. tendencies noted earlier. With great physical resources and fewer limits or risks on their employment, the inclination to employ military force to solve international problems inevitably increases. Further, since it is the United States that has the preponderance of military power, there is a presumption that decision-making authority need not be shared. Second, and naturally enough, the United States has shown a marked preference for conducting the type of combat most adapted to its high technology advantages: aerial attacks from long range or high altitude.

Relying on aerial bombing has bred its own variety of resentment, from friends as well as enemies. Resentment has come in accusations that Americans have a low tolerance for casualties, are reluctant to employ ground forces, and are content to bomb in relative safety from high altitude, even at a sacrifice in bombing accuracy. Justified or not, these reports surfaced often in 1999 during operations in Yugoslavia, particularly in reference to accidental bombings of civilians or in the inability of the air campaign to prevent the ethnic cleansing through the killing or expulsion of Kosovar Albanians by Serb forces. During Enduring Freedom in Afghanistan, like criticism emerged concerning civilian deaths from aerial bombardment.

In some respects, the United States has been a victim of its own success in its use of high technology weapons. Clearly, civilian deaths or incidents of “friendly fire,” the accidental killing or wounding of friendly ground forces, have always happened in war, and just as surely precision weapons have both made bombing more effective and contained damage far better than wars that used gravity (non-precision) bombs. With high expectations and with the confident predictions of U.S. military planners, however, America’s allies, as well as the American public, have come to expect precise execution, regarding anything less as either incompetence or arrogant disregard for the lives of those on the ground.

Several historic factors, then, have always set Americans apart from Europeans, and at least one more recent factor, unequaled capability in high technology weapons, has further underlined these differences. It was with these inherent differences that the United States and Europe entered the post-September 11 strategic setting, and the nature of the new threat itself served to accentuate the differences. The division began with the U.S. definition of what it faced: a “war on terrorism.”

THE WAR ON TERRORISM

When the United States announced its strategic focus as a war on terrorism, it continued a traditional practice of putting its foreign policy goals in grand terms, those of complete victory, but the use of the term brought other conditions as well. First, in so doing the United States at once identified it as a war it could not win. Strictly speaking, a war on terrorism is a war on a tactic or method of warfare, not on a specific enemy. Not naming that enemy opened the door for others beyond al Qaeda and its allies to fit within the definition, a situation soon apparent. Second, the United States became open to overtures from some would-be allies eager to name their internal dissidents as terrorists. Most notably, the United States had to be much more permissive in dealing with Russia in its handling of the insurgency in Chechnya and with China in its dealing with dissidents in Xinjiang Province. In addition, the United States not only ended its sanctions against Pakistan, but also began working closely with its military government. That arrangement skirted the issue of Pakistan’s own involvement in sponsoring terrorist elements in Indian-controlled portions of Kashmir.

One could justify renewing links with Pakistan as a necessary component of waging war against al Qaeda in Afghanistan, but the United States strong support for Israel, then engaged in a period of escalating violence with the Palestinians, was seen in a different light. The stance on support of Israel drew increasing censure from Europeans. From the United States perspective, the U.S.-brokered peace agreement between Israel and the Palestinians had broken down because of Palestinian (Arafat’s) failure to accept the terms or even continue negotiations. Therefore, when the Palestinians began a series of suicide bombings of

Israeli civilians, U.S. sympathy for Israel's plight is completely understandable, particularly when the Palestinian suicide bombers announced how much in common they had with those who had flown aircraft into the World Trade Center. Meanwhile in Europe, particularly in countries like France with large Muslim populations, sentiment became far more pro-Palestinian. Without getting into any of the complexities of the Israel-Palestinian dispute, let me simply note that during 2002, the differing views of who was to blame significantly accentuated the U.S.-Europe divide on this and other policies.

Perhaps the most important fissure of the relationship came when the United States began to change focus from its operations against al Qaeda in Afghanistan to the removal of the regime in Iraq. Even while preparing for military action against al Qaeda and Taliban forces in Afghanistan, the United States had already singled out Iraq as a continuing difficulty. For the United States, Iraq represented an obstruction to every aspect of U.S. Middle East policy. Iraq had avoided and otherwise frustrated UN arms inspections for over ten years; to contain Iraq, the United States had to maintain large, politically sensitive military bases in Saudi Arabia and Kuwait, and these bases had become a further source of friction in the U.S. Middle East policy; The United States must consider Iraq as a potential supplier of chemical and biological weapons (if it has not already done so) to al Qaeda and other terrorist groups; and, Iraq encouraged Palestinian terrorist tactics and rewarded the families of the bombers. For these and other reasons, solving the Iraq problem—deposing Saddam Hussein—came to be seen as central to solutions in the Middle East. The Bush administration, even before coming into office had announced its intention to push for a regime change in Baghdad. The al Qaeda attacks had displaced that focus only temporarily. Investigations held subsequent to September 11 had focused on possible links of Iraq to al Qaeda itself, but when that evidence seemed less than conclusive, Iraqi regime change remained a goal even without the terrorism link. Therefore, when military operations in Afghanistan were reaching their concluding stages, Iraq emerged as the U.S. administration's next target, with the prospects for success buoyed by the example of what had been accomplished quickly in Afghanistan.

Success in Afghanistan provided a powerful example of U.S. military power, and that success no doubt helps explain U.S. confidence in taking military action against Iraq, even without allies. High technology weaponry worked in Afghanistan, just as it had in the Yugoslavia air campaign, and under conditions that many commentators had warned would prevent rapid success; the defeat of the earlier Soviet incursion was often cited. Looking then at Iraq, instead, many U.S. planners saw a country just as vulnerable to U.S. military power. Though Iraq had little in common with Afghanistan, Iraq was seen as a hollow shell, militarily far weaker than in 1991 and with a disaffected population willing to split from the regime. Afghanistan also had demonstrated the advantages of a U.S.-only directed air campaign. Whereas in 1990 the United States had eagerly sought allies, this time the United States prepared to act with only minimal support, perhaps from the British, and of access through countries in the region, such as Kuwait and Turkey.

Further evidence of the sweep of U.S. intentions came with President Bush's State of the Union address in January 2002. In that speech, President Bush identified not only Iraq, but also Iran and North Korea as partners in an axis of evil. In that speech, Bush painted the issue of dealing with Iraq not as a deviation from the war on terrorism but as a direct follow-on to that war after dealing with Afghanistan: "Our second goal is to prevent regimes that sponsor terror from threatening America or our friends and allies with weapons of mass destruction."¹⁰ The three countries, Iraq, Iran, and North Korea, were cited as such regimes. Stated in this way, there were two implications: that those who were with the United States in the war on terror should also support regime change in Iraq; and that following Iraq, Iran and North Korea could receive similar treatment.

During 2002, while debate on dealing with Iraq continued within the administration as well as abroad, the Bush administration produced a national security strategy that addressed a new approach to Iraq and states like it. The new policy incorporated the element of what was termed preemption in dealing with so-called rogue states and their terrorists' clients. In addition to advocating a range of measures of counter proliferation efforts and consequence management, the new strategy presented the following case:

The United States has long maintained the option of preemptive actions to counter a sufficient threat to our national security. The greater the threat, the greater is the risk of inaction—and the more compelling the case for taking anticipatory action to defend ourselves, even if uncertainty remains as to the time and place of the enemy's attack. To forestall or prevent such hostile acts by our adversaries, the United States will, if necessary, act preemptively.¹¹

Citing the option, or the doctrine, of preemption the United States embarked on a revised direction for its strategy. As the document noted, preemption was not a new subject to U.S. strategy—U.S. actions in Grenada in 1983 and in Panama in 1989 fit within that definition. More than just as an exception, however, the U.S. administration laid out justification for moving beyond deterrence to a more offensive-oriented strategy based on the extreme danger posed by weapons of mass destruction: to wait for normal tactical warning of attack was to subject the country to massive damage. To execute such a strategy, decision-makers required the acquisition of precise intelligence information and an ability to respond promptly to threats. All of these conditions, needless to say, do not correspond well with a coalition's decision-making structure.

Though the strategy cited the need to act in a *preemptive* manner, what was advocated was in fact *preventive*. U.S. Department of Defense documents defines both terms.

Preemptive attack: An attack initiated on the basis of incontrovertible evidence that an enemy attack is imminent.

Preventive war: A war initiated in the belief that military conflict, while not imminent, is inevitable, and that to delay would involve greater risk.¹²

What the strategy describes clearly fits preventive, not preemptive actions.

The new U.S. strategy, regime change in Iraq, and the Israel-Palestinian situation resulted not only in transatlantic disputes but also

in great controversy within the United States. Most controversial was the subject of U.S. military action to force a regime change in Iraq. The split in opinions did not follow political party lines. Their opposition to the Gulf War in 1991 had burned the Democratic Party, and its members sought to avoid duplicating that experience. Instead, significant opposition came from a variety of sources, including former policy-makers in both the Clinton and earlier Bush administration. Also notable was hesitancy from the U.S. military establishment, openly from retired general officers (including two past commanders of U.S. Central Command, retired Marine Generals Anthony Zinni and Joseph Hoar), more indirectly from those on active duty.

Based in part on criticism at home and abroad, President Bush, by taking the case of Iraq to the United Nations in September 2002, changed the focus of U.S. policy towards Iraq. Shifting objectives from regime change in Iraq, by U.S. unilateral measures if necessary, to reinstatement of UN inspections with tougher standards, meant not only new tactics, but also a changed focus regarding terrorism. Even with new tactics, the United States considered the end result would be the same: if forced to give up his weapons of mass destruction (WMD) programs, Saddam Hussein was finished. The new focus, as announced, however, was no longer directly in pursuit of a war on terrorism. The new strategy against Iraq concerned its actions and violations that had occurred well before September 11.

When the United Nations passed Resolution 1441 authorizing the tougher inspections, two dynamics came into effect: the prospects for a united coalition to confront Iraq was heightened considerably, and a set of deadlines were established. It is at this point that matters stand in early 2003. From this point, much depends on how the United States and the European states treat the inspection deadlines and judge the adequacy of Iraqi responses to the inspections. Many scenarios are possible, and the possible outcomes just as varied. For the U.S.-European relationship, much depends not only on what happens to Iraq in the short term but over the next several years. A Security Council-endorsed military operation would spare a great degree of further disagreements, but divisions that have developed within Europe as well as within the United States will not soon disappear. If the resulting military operations bring a

successful conclusion to the Iraqi situation—Saddam Hussein removed, with the country relatively intact—there is a greater chance of renewed harmony, but any real success will take years to demonstrate.

And, though the most immediate issue for the United States and Europe concerns actions against Iraq, that issue is only one of several key to the future of U.S.-Europe relationship. Instead, there are three critical, distinct but interrelated issues:

- U.S.-European cooperation in controlling and combating al Qaeda;
- Policy toward the Israeli-Palestinian situation; and
- Actions to disarm Iraq of WMD, to include regime change.

The first of these issues will bring the United States and Europe more closely together. Policing, intelligence-sharing, and common policies on treatment of terrorists and terrorists' acts are in the best interests of both, and cooperative measures are needed to bring success. Al Qaeda clearly gains if the United States acts unilaterally, or is forced to act without European cooperation. The second and third of these issues have been the key sources of division, and those division could continue. One might consider the U.S. Iraq policy as the true source of divisiveness and that regime change there will mute the disagreement over treatment of the Palestinian issue. An equally valid case can be made, however, for the Palestinian issue on its own as being just as divisive and even more long lasting than the fate of the Iraqi regime. One or both of these issues may well continue to divide the United States and Europe.

ENDNOTES

¹ Robert Kagan, "Power and Weakness," *Policy Review* 113 (June/July 2002).

² Russell F. Weigley, *The American Way of War* (Bloomington: Indiana University Press, 1973), xx-xii.

³ John Shy, "The American Military Experience: History and Learning," *Journal of Interdisciplinary History* 1:2 (Winter 1971): 216.

⁴ Henry Kissinger, *Diplomacy* (New York: Simon and Schuster, 1994), 222.

⁵ The White House, Washington, D.C., *National Security Strategy of the United States of America*, 17 September 2002, 3, 16.

⁶ I acknowledge a difference in definitions between alliance and coalition: alliance being defined as a formal, continuing relationship between states, and coalition as a

more temporary union of states formed for the purpose of conducting a war or attain a specific objective. Since the United States has exhibited common tendencies towards both coalitions and alliances, however, the distinction has little importance for the subject of this paper, and I will use the terms more or less interchangeably.

⁷ Benjamin S. Lambeth, *NATO's Air War for Kosovo* (Santa Monica, CA: Rand, 2001), 185-6. In truth, many of the disputes over targeting, Kosovo vs. Serbia proper, Serb fielded forces vs. government installations in Belgrade, and others were disputes mirrored within the U.S. command structure itself. Most notable in this regard were the contrasting views of the SACEUR General Wesley Clark and those of his air commander Lieutenant General Michael Short, both Americans (*Ibid*, 189-93).

⁸ Andrew J. Pierre, *Coalition Building and Maintenance* (Washington, DC: Georgetown University Institute for the Study of Diplomacy, 2002), 41-5.

⁹ For the purposes of this discussion, I note only the technologies. The voluminous literature on “transformation” and “revolution in military affairs” correctly emphasizes that real change calls for doctrinal and organizational adaptation to the new technologies.

¹⁰ “The President’s State of the Union Address,” Washington, D.C., 29 January 2002.

¹¹ George W. Bush, “The National Security Strategy of the United States,” The White House, Washington, D.C., 17 September 2002.

¹² United States Department of Defense, “DOD Dictionary of Military Terms,” Washington, D.C., 2002.

**WAR AND TERROR IN CONTEMPORARY AND
HISTORICAL PERSPECTIVE: AN OUTLOOK**

Michael Geyer

Consider the depiction of good government in the *Palazzo Pubblico* of Siena in Tuscany.¹ Entering the hall of the magistrate, the *Sala dei Nove*, we confront our worst nightmare, a representation of the “City State under Tyranny” with a furious harpy spreading terror in a devastated world. Women are assaulted, justice is bound, her scales are broken, and violence rules supreme. The name of the fearful creature, represented by the flying corpse of a woman with a dark sword, is *Timor*—fright or fear. She rules, as the vernacular Italian inscription says, “because each seeks his own good in this city.” Unjust rule or tyranny is portrayed as the effect of avarice, pride, and vainglory leading to cruelty, treason, fraud, furor, and division—the tempers of war in a land of tyrannical evil.

Turn around and you will see “The Good City Republic.” The latter is presided over by a luminous winged figure who levitates over a peaceful and rich countryside. This female figure is named *Securitas*, security. An inscription adjacent to her admonishes us that, as long as the community holds this lady “sovereign” people will travel freely without fear. Farmers will till and sow to everyone’s benefit. The city will flourish.

Despite her gauzy and transparent garment, *Securitas* is most definitely not from Venus. To be sure, she presides over a happy city in which singing and dancing complement the labors of the productive crafts, the teaching professions, and of trade. However, the prerequisite of such pursuit of happiness is lady *Securitas* “stripping the wicked of all power.” The lovely lady in a state of undress holds aloft a gallows on which a blindfolded man hangs dead.

The theme is repeated elsewhere in the *Sala dei Nove*. Linking the depiction of good and evil government on the East and West wall respectively, we encounter, on the North wall, a fresco of the virtues of good government. Once again, the issue of security dominates the picture. Here, security is embodied as a more fully dressed Justice or *Justitia*. But note the placement of *Justitia* and her attributes. She is enthroned in the center below the genius of Wisdom/Prudentia, who is floating before a blue background with book and large scales in her hand, and above

Concordia, the spirit of unity, who is grouped with the members of city government holding on to concord's rope. So far so good. The scale, though, that Wisdom holds and Justice balances merits some attention. On the scale's left pan kneels an angel who decapitates a violent man and crowns a peaceable one, while we find on the right scale another angel who regulates trade and the exchange of goods. Lest we should forget, Justice both gives and takes. It regulates commerce much as it ascertains peace. It always carries a sharp blade, ready to strike the wicked.

The message of the image is spelled out in the bottom frieze:

[Justice], wherever she rules, induces to unity the many souls [of citizens] and they, gathered together, make the Common Good their Lord; and he, in order to govern his state, chooses never to turn his eyes from the resplendent faces of the Virtues who sit around him. Therefore to him in triumph are offered taxes, tributes, and lordships of towns; therefore, without war, every civic result duly follows—useful, necessary, and pleasurable.

Ambrogio Lorenzetti created this famous fresco between 1338 and 1340. Every tourist who has ever visited Tuscany will have seen it. It is a canonic image in the annals of western civilization. Until recently, visitors admired mostly the composition of the fresco or reflected on its place in the history of Italian painting. Nowadays, they are, perhaps, a bit more sensitive to what the fresco actually depicts. For it articulates the ancient verity that good, republican government and the public peace it guarantees depends on justice endowed with the monopoly of retribution. Justice and security, clearly, are pivotal. They are the opposite of Fright, which rules supreme in a state of lawlessness and breeds endemic violence—the burning, raping, pillaging, and indiscriminate killing that Lorenzetti observes with a keen eye. Yet, quite as clearly, Justice is not without violence. At its core it entails the right over life as the prerequisite of virtuous government. The need to judge who may live and who may die is inscribed—repeatedly as it turns out—right in the center of power, in the hall in which the magistrates meet, in a community that fiercely insisted on the common good and virtuous governance. The message is unequivocal: It is Right that controls Might, lest violence turns evil.

The *Sala dei Nove* depicts the key elements of “republican” ideology. At the time, the provocative message of Lorenzetti’s composition lay in marking off the public nature of justice as an integral element of good government from familial rituals of blood feuds and private wars. Back then, the message was not that justice carried a sharp blade in addition to the scale, but that the blade was, of right, in the hands of justice. It founded good government as opposed to arbitrary and lawless rule. The Sienese associated arbitrary and lawless rule with the upstart Florence and their tyrannical rulers. But above all, they made a programmatic statement. The point of it is that security cannot be achieved outside and above the law. If those who judge bind themselves to law and virtue, they will gain wealth and power. Otherwise, they will spread fear and trepidation.

JUSTICE

Today, we wonder yet again what good government entails: what institutions and what kind of wisdom public justice are founded on in an age of globalization; what kind of retribution the maintenance of good government may entail; what public war is and what separates it from private feuds; and what violence is in the name of justice in contrast to arbitrary (self-aggrandizing and self-serving) violence. Perhaps, we should wonder above all where in the world we can find *Justitia* and her genius of *Prudentia* to bind any and all in concord. A world gone global in war and peace seems so much more difficult to understand than the chaotic little world of northern Italian city states.

In fact, these questions are novel only in the sense that they must be asked anew under changed and changing circumstances. To be sure, the world of fourteenth-century Tuscany is far removed from ours. It is strange and quaint alike with its gauzy angels and flying corpses. Our concerns, which emerge in a rapidly globalizing world, cannot easily be derived from past experience. Some pundits consider them to be unprecedented. However, even if we were to assume for a moment that the latter were true, it would seem that the way to find answers and solutions is still to look for and to think from precedent—precedent in terms of action and in terms of thought. While the past holds no blueprints, it is a repository of thought and action. It affords us with the unique chance to reflect, on the basis of a vast inheritance of good and bad government,

on the challenges we face. We have to ask, yet again, what is right as opposed to merely opportune. What is good government on a global scale?

The concern with and the overwhelming importance attributed to “security” both in fourteenth-century Siena and the present-day United States is a useful departure. Despite the difference of scale, both try to come to grips with a pervasive state of lawlessness in their quest for security. The chaotic world of the northern Italian city-states and their feuding families was not so far off in this regard from the chaos of today’s globalized world. For their time, the Sienese answer unequivocally insisted on “good government” that minded the common good, which they set over and against the arbitrariness of powerful private interest as the breeding ground for arbitrary rule and pervasive violence. American citizens seem puzzled and uncertain what exactly security may entail and how it is achieved. They may think of the sword, but not necessarily of Justice’s scale and Concord’s rope.

Many think that in today’s world Might trumps Right—so much so that in “old Europe” (which includes northern Italy) the opinion prevails that the United States has all the qualities of the Florentines and none of the Sienese. Not to mince words, this opinion holds that the United States has turned tyrannical, whereas Europe holds on to republican virtues. As in the old days, there is a lot of gesturing going on. We need not and cannot decide the matter here. But what we can say with some assuredness is that in the opinion of “old Europe” (and surely in Germany) security has to be inseparable from justice. As everyone knows, this has not always been the case. In fact, it is a rather recent development. The irony is that this development was quite commonly attributed to the United States and its virtuous government. Some of the recent gripes emerge, no doubt, from disappointed hope.

The German case is worth contemplating for a moment.² There, defense in an age of nuclear confrontation, the use of nuclear weapons on the territory of Germany, connoted certain death. Deterrence in the form of mutually assured destruction came to be seen as prerequisite for security—the much vaunted and treasured political good of *Sicherheit*. The latter, of course, was built on missiles and tanks, but the word exuded all the angelic and protective qualities of a guardian angel. This guardian was the United States. The latter came to be accepted and, indeed, invited because its might sustained the security of the land as a common good. The United

States came as an armed protector, but it was seen as a guardian angel. While the United States, as a hegemonic power, fore-grounded military readiness (in Lorenzetti's frescos represented by the sword, the lance, and the gallows), the Germans saw the efflorescence of a productive city and landscape and laughter and public merriment after a long period of war and tyranny. But this is not quite all. Germans had come to trust the United States as the power capable of reinsuring the national and international rule of law. There is something to be said for the argument that an affluent Germany rather preferred to forget the sword, the lance, and the gallows that came with security and, instead, concentrated single-mindedly on their good luck of being safe. But they felt safe and assured inasmuch as they thought they were protected by a virtuous government.

The German use of the term security is further intriguing, because it conflates safety from external violence and military attack with internal stability, unity, and concord (within a divided country, to be sure) as well as with the good life for all within a welfare state.³ Safety from external threat in a hostile world, security as commutative justice, and good government as the bonds that tied a multi-vocal and cosmopolitan citizenry together in the pursuit of the common good of the free world—all this was, no doubt, less perfectly “real” than it was imagined, but it became the idea that underwrote the transformation of a violent and tyrannical nation into a peaceful and democratic one. The seamless fusion of external safety, rule of law, and the pursuit of happiness expressed in the common good of a well-ordered society thus made imminent and experiential sense in the postwar German situation—quite irrespective of ideology and reality. The Germans had come to embrace a “republican” ideal.

The irony is that the Americans, who, after all, had pioneered this kind of government in their constitutional revolution two hundred years ago, were altogether less attune to the subtle links that had fused together internal and external security on one hand, and commutative and distributive justice on the other in their founding documents.⁴ They were less inclined to seek security, both nationally and internationally, in good government—good government in which according to Lorenzetti Justice (with balance and sword) would reign supreme. They always thought of security more in military terms. In one of her darker moments, Hannah Arendt, who is

best known for her trenchant analysis of totalitarianism, castigated her fellow Americans for having betrayed their revolutionary heritage.⁵

The bone of contention, as far as Arendt was concerned, was good government both within the nation and beyond. She was never convinced that something like global government could exist. In fact, she thought of the latter as an abomination. But faced with the global challenge of tyranny and genocide, she insisted that the rule of law, the right to have rights, must pertain to all humans. Somewhat reluctantly, she concluded that Right trumped Might not just within nations, but also in the conduct between them.⁶

Why bother with arcane political theory and images that are consumed as tourist attractions? Because the recent alienation of “old Europe” and the United States suggest not only manifest differences of interests and policy, but it also points to the fact that virtue in government is a perishable item. Once lost, it is difficult to regain. Interests can be reconciled, policies can be changed, but the virtues of good government are accumulated only through experience and are easily lost.

SECURITY

The current clamor for “security” suggests that past experience may be of value to provide guidance in largely uncharted terrain. The security of the territory has been breached in acts of self-proclaimed vengeance. We live in a world of horrendously destructive wars and of endemic civil and ethnic wars.⁷ We are told we may live through a period of the revolutionary transformation warfare in which leaderless networks come together out of nowhere in particular to “swarm” their enemies and are blown to pieces by a global network of electronically guided violence in return.⁸ What citizens experience above all is shock and fright in the face of civil violence and war that has fallen out of the conventions, codes, and rules that the American government and the community of nations have ascertained in the wake of an era of European wars and have subsequently tried to adjust to an era of colonial and post-colonial wars.⁹

Security has yet again become a precious good and a vital issue in a world in which violence abounds and national territory and global spaces are not easily separated. In this situation, the United States has asserted with unusual

candor and determination its sovereign right over life and death. The nation is divided and, altogether, uncertain over the righteousness of the demonstration that has been undertaken in Iraq in the name of combating tyranny. This action is seen by some as the effective subjugation of a country in which fear ruled supreme. Others regard it as a lawless act of aggression. But what seems clear is that wherever the answer may lie, it can only be found if we keep in mind that security, which does entail the right over life and death, is an expression of justice that binds all. This, in any case, is what the “republican” tradition of security as a vestige of good government entails.

TERROR

The opposite of security is the pervasive rule of Fright or *Timor*, as Lorenzetti had it. In the western tradition, certainly in modern times, this state of affairs is commonly associated with “terror.” Whatever else the word may mean, it indicates, above all, the experience of fright in the absence of the security of the territory, whether the threat comes from within or from without or from both sides. Terror is in the first instance the emotion in the face of lawlessness and arbitrary rule. It is second, then, the violence that produces such emotions. This is not just any kind of violence. Terror is the violence that deliberately sets out to shred the conventions and norms of human conduct, including the conduct of war. Terror deliberately violates justice. It gets its purchase and its appeal from the refusal to accept any form of order. It denies community. It is the spirit that negates—which is the deeper source for identifying terror with evil.

It is worth remembering the message that both the theorists and practitioners of the French Revolution spelled out when they gave “terror” its modern meaning. Terror, they argued, is a public state of mind (of intense fear, apprehension, etc.) and terrorism is the act of deliberately generating it. Put in this way, the production of a state of terror is open to self-definition—it is whatever produces the public effect. Terror can be produced by intimidating or killing civilians; it can also be produced by killing soldiers or bombing military targets. Terror can be produced by violence of civilians against civilians. But it will always entail an element not simply of surprise, but of shock—shock that is achieved by breaking the conventions of

everyday life. Terror is not simply frightening because it kills people, but because it destroys or aims to destroy the sense of security of individuals and society. Terror in this sense is best understood as the deliberate and violent unmaking of the integrity and safety of everyday lives in order to generate fright.¹⁰ It is rule by fear.

Terror is lawless and chaotic, but it is not without reason. In fact, the most striking aspect of terror is how well and how extensively it is reasoned. The Guillotine was backed up by endless rationalizations of why it must exist. For as much as terror is lawless and chaotic, it produces shock and fright with a cause. It always serves a higher law that invalidates the existing order. In fact, terror often enough serves the purpose of advertising this higher law. The nature of this higher law is changeable. Lately, the higher law of religion has come to the fore as a main source of terror.¹¹ Historically, the imperatives of history/class or nature/race have been most commonly associated with terrorist regimes.¹² Perhaps, most prominently terror was and is tied to the strictures not simply of nationalism, but of national liberation—or, more vaguely, to the liberation from alienation.¹³ But common to all these proclamations is the assertion of a state of emergency, in which the rule of necessity trumps laws and negates rights. It is not quite by chance that the foremost theorists of the state of emergency, Carl Schmitt, is also one of the foremost theorists of terror.¹⁴

Needless to say, the effect of terror and its effectiveness depends not simply on generating shock, but on what people and governments do to themselves and others in order to recapture their lost sense of security. We can again go back to the French Revolution to learn about the irony of asserting public justice that may undermine the very liberty it is supposed to secure. Terror, then, is both a state of mind—a lack of sense of security—and a challenge to the ability of civil society and its institutions to ascertain safety and integrity without undercutting civility. The challenge terrorists create does not end with fending off the threat, but with rebuilding a sense of safety and of the integrity of public life.

Put in a nutshell, terrorism may exhaust itself in bomb throwing and assassination in order to intimidate authority, the state, and its officials. But more profoundly we encounter it as a form of violence that aims at the sense

of security of the people. It is nation and civility-destroying violence. It undercuts or aims to undercut the ties that hold society together.

The classic way of stopping this violence was depicted in Siena: Security is gained through public justice that is backed up by a monopoly of retribution. It sets the accountability of the law against arbitrary violence in the name of some higher reason.

WAR AND TERROR

It we think of terror, we most commonly think of what Walter Laqueur aptly called the philosophy of the bomb—bomb-throwing fanatics who in killing authority figures aim to intimidate the state.¹⁵ Their success cannot and should not be second-guessed ever since they killed the Austrian Archduke and his wife, triggering World War I. There are other historical examples that may appear equally suitable, whether we look at acts of terrorism in civil wars or on the group-based terrorism of the seventies, whether we think of territorial terrorists like the Irish Republican Army, ideological terrorists like the Baader-Meinhof group, ethnic terrorists like the Tamil Tigers, or the growing ranks of religious fanatics. There are surely plenty of examples and there is a growing body of literature on this subject.¹⁶

However, neither the bomb-throwers nor the social or religious movements that spearheaded the more recent violence are the subject of the current volume. Rather, it focuses on the deliberate, calculated, and, as it were, “strategic” use of terror as a form of violence whose very *raison d’être* consists in breaking the prevailing norms of war as a means to achieve their ends (by way of intimidation and fright). Armies engage in this kind of war as much as *franc tireurs*, guerillas, and irregulars. Terror is often set in opposition to war and, surely, in opposition to professional armies. But as a historical phenomenon, war that achieves its goals by deliberately violating the norms and conduct in warfare is not at all infrequent. By the same token, the temptation of the state to break the law in order to counter terror is equally well established.

This much is history. The discussion of the past, however, sheds light on the role and place of terror in contemporary war. Here, the debate swirls around the merits of the argument that claims the unprecedented “revolutionary” character of contemporary warfare. The standard practice of American defense intellectuals ties this transformation of warfare to “revolutionary” changes in

how military forces operate based on exploiting new technologies. They see themselves a part and, indeed, as leaders in a technology-driven revolution. This line of reasoning puts, as it were, “the industrial revolution” before the “political revolution,” which for historians equates putting the cart before the horse.

The more difficult question is whether Al Qaeda has not stolen the thunder from the revolution in military affairs. By this I mean by waging a kind of war that thrives not only on novel social forms of mobilization (transnationalism), but with the explicit aim of unmaking the very fabric of enemy societies. If this were so, we would face the possibility of a fusion of war and terror that, while not unprecedented, surely redefines what war is. The goal here would not be generating intimidation, but producing chaos. This is violence of mythical proportions, quite literally the unmaking of the world.¹⁷

Be this as it may, the terrorist attacks on the World Trade Center in New York and on the Pentagon in Washington, D.C. on September 11 achieved its end of shock and a not inconsiderate degree of intimidation. The question is how to deal with similar threats. Here, we encounter not just partisan debates, but also distinct national styles. The responses to terror, particularly in Germany and the United States put to the test notions of national interest. Quite apart from a vast difference in capabilities, we encounter reactions that are profoundly conditioned by historical experience. The challenge is to make this experience resonate with public opinion. I hope we can confront the historical and political question of how past experience and the political and cultural repertory of nations, of the United States and Germany in particular, shape present perceptions and policies concerning war and terror beyond the obvious platitudes about *Vergangenheitsbewältigung* on one hand and hegemonic leadership on the other. Needless to say, this is a politically charged topic, but beyond the sheer emotions of politics (and scholarship) there is an intriguing problem to be addressed.

ENDNOTES

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