Terrorism and the Ethics of War: Responses to Joan McGregor, Sally Scholz, and Matthew Silliman

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Abstract: The primary thesis of Terrorism and the Ethics of War is that terrorist acts are always wrong. I begin this paper by describing two views that I criticize in the book. The first condemns all terrorism but applies the term in a biased way; the second defends some terrorist acts. I then respond to issues raised by the commentators. I discuss Joan McGregor’s concerns about the definition of terrorism and about how terrorism differs from other forms of violence against innocent people. I respond to Sally Scholz’s challenges to my interpretation of innocence. She argues that soldiers can be innocent victims of terrorism and that both relationships and vulnerability are important to understanding innocence. Matthew Silliman questions my defense of utilitarianism and challenges two views that I defend: that all terrorist acts are wrong and that war can sometimes be right. I sketch brief responses to these important points.

Since most philosophical works get very little attention from the world, the writing of a philosophical book must be spurred by motivations other than the desire for recognition. The hope that one’s work will help others to better understand important subjects certainly plays a role, but it is not realistic to expect to have a large, noticeable impact on the beliefs of others. There must be some other source of motivation that sustains the effort. For me, and I suspect for others, there is a deep need to understand problems, answer questions, and put these ideas into sentences, paragraphs, and chapters. That need, like an intense itch or powerful thirst, demands attention and must be relieved. This self-regarding motivation for writing does not diminish my hope that others will find what I have written to be interesting and valuable, however. So, it is deeply gratifying to me that my book Terrorism and the Ethics of War was chosen to receive the 2010 book award.
from the North American Society for Social Philosophy. It is also deeply gratifying
to have three serious, thoughtful philosophers devote their attention to reading,
studying, and commenting on my book. I am very grateful to the NASSP and to
my able commentators, Joan McGregor, Sally Scholz, and Matthew Silliman for
honoring me in this way.

Overall View of My Book

Before responding to my commentators, I want to describe some key themes in
my book. I will do this by identifying two primary targets of criticism in Terrorism
and the Ethics of War.

The first set of views that I criticize actually agree with the book’s main thesis
that terrorist acts are always wrong. While these views condemn terrorism, how-
ever, their criticisms lack moral credibility because they employ biased definitions
of terrorism and invoke moral principles that they fail to apply in a consistent,
impartial way.

To illustrate these points about biased definitions and inconsistent application
of moral principles, consider how the Allied bombings of German and Japanese
cities in World War II are generally regarded. These attacks are seldom recognized or
condemned as terrorist acts, but they have all of the features cited in the definition
of terrorism that I defend. I define terrorist acts as serious acts of violence that are
done to promote a political cause, directed at a limited number of victims in order
to communicate a message to a broader group and its leaders, and that intentionally
kill or injure innocent people. Yet, many people who condemn terrorism do not
apply the “terrorist” label to the World War II city bombings. In addition, although
virtually all Americans denounce and condemn terrorism and terrorists, almost all
Americans see the Allied city bombings of World War II as morally justified, even
though these bombings were direct attacks on innocent civilians. As a result, the
criticisms of terrorism that are made by such people carry no moral weight.

An extreme example of a non-credible moral critic is former President George
W. Bush. In his 2009 Farewell Address, Bush asserted that “Murdering the innocent
to advance an ideology is wrong every time, everywhere.” Although he says this,
there is no reason to think that he would condemn the World War II bombings,
even though they were terrorist attacks that killed innocent people to achieve a
political goal. Bush’s condemnation of terrorism is also lacking in moral credibility
because his actions as President showed little concern for the avoidance of actions
that would kill innocent people.

Bush is not alone, however, in his inconsistent views. Many people engage
in these selective condemnations, and my guess is that their inconsistent judg-
ments arise from a kind of moral blindness and not from hypocrisy. My guess is
that because most people do not see that their views are inconsistent, they fail to
experience the cognitive dissonance that might lead them to critical reflection and a fuller understanding of their own views.

The second type of views that I target for criticism are views that are logically consistent and that explicitly or implicitly endorse the permissibility of terrorist acts under some conditions. Refuting these views requires showing that it is in fact always wrong to attack innocent people/civilians. If this principle can be established, then all of the principles that permit deliberate attacks against civilians—ranging from the extreme realist “anything goes” to act utilitarianism, proportionality, and Michael Walzer’s “supreme emergency” exception—are mistaken and should be rejected. In this part of the book, I develop a rule utilitarian argument to support an absolute prohibition on attacking civilians in war. While most philosophers think that only a rights theory or other deontological view can justify an absolute prohibition of this sort, I argue that rule utilitarianism is capable of providing a basis for this absolute rule.1

In their responses to my book, my three commentators raise many interesting, worthwhile points. While I will have to ignore many things they say, I will try to respond to the main points that each stresses. Joan McGregor and Sally Scholz emphasize issues regarding the definition of terrorism. Joan McGregor asks how terrorist attacks on innocent people differ from other types of violence against innocent people while Sally Scholz examines the concept of innocence, which plays a crucial role in my definition of terrorism. Matthew Silliman questions my apparent rejection of deontological moral theories and raises challenges both to my moral disapproval of all terrorist acts and to my moral approval of at least some wars. My brief replies to these points are sketches of answers that will no doubt fail to do full justice to the problems that my commentators raise.2

Response to Joan McGregor

Joan McGregor correctly notes that my account explains the wrongness of terrorism by citing the fact that it targets innocent people, but, she says, I fail to explain how terrorism is “different and worse” from other types of serious attacks on innocent people (such as rape, murder, and physical assaults). She proposes that what makes terrorism “different and worse” is that it terrorizes.3

While this is a plausible view, I support a broader view that stresses the fact that terrorist attacks have a political goal and that they use violence as a form of communication, attacking a set of victims in order to influence an audience of other people and political leaders. Although Joan McGregor stresses terrorizing as the essential communicative goal, she herself mentions a variety of messages that terrorist acts may convey and a variety of effects these messages may produce; these include intimidating people, changing individual and group behavior, publicizing an agenda, shattering people’s sense of security, and, as in the case of the 9/11 attacks,
communicating the superiority of Islam over the United States. These messages may be linked to inducing feelings of terror, but they need not always do so. Terrorist acts do not all have the same specific function even though they must share the aim of promoting some kind of political goal.

Joan McGregor asks a number of interesting questions about what things count as terrorism and suggests that there are many terrorist acts that are not usually seen as terrorism. One that she discusses is the systematic racial violence against African-Americans by Jim Crow laws and groups like the Ku Klux Klan. Failing to see these as terrorism, she says, is “perplexing and worse.” I fully agree. The use of violence to enforce and perpetuate racial segregation in the United States was a terrorist campaign. It was violent, had a political goal, and attacked innocent people to send a message to others who might be tempted to violate or challenge the pervasive racist code. I agree, then, with Joan McGregor’s claim that terrorist acts were used to enforce these racist practices.

One virtue of a clear definition of terrorism is that it allows us to categorize actions as terrorism that are often not recognized as terrorism. In addition, and here the case of so-called “eco-terrorism” which Joan McGregor cites, is relevant. The definition can help us to answer the question of whether a particular use of the terrorist label is accurate or is simply a tool for hype or propaganda. Without a definition, we can get nowhere debating such matters.

Some of Joan McGregor’s points suggest that she thinks that failure to call certain acts “terrorism” inevitably leads to inadequate condemnations of them. Although I condemn all terrorist acts, I draw a distinction between classifying an action and evaluating it, and I use a neutral definition so as to separate the task of classifying an action as terrorism from the task of morally evaluating it.

Separating classifying and evaluating makes two points clear. First, people can differ on whether terrorism can be morally permissible while agreeing on what it is. The definition is and should be neutral in this way. Second, and this is obvious but easily overlooked, an act does not have to be called terrorism in order to condemn it. For example, ethnic cleansing can be carried out either by terrorist acts—attacking some members of a group in order to frighten others into leaving a territory—or by extermination of the targeted group. Extermination is not a form of terrorism because it lacks the communicative aspect of terrorist attacks. Extermination of a group is surely worse than terrorist acts that force its members to flee to other places. By refraining from calling the extermination strategy a form of terrorism, we in no way are precluded from strongly condemning it for its horrific, inhumane features.

The other case of great interest that Joan McGregor raises is rape. Rape is a form of serious violence that is sometimes used by groups to promote a political goal and to influence a population and its leaders. In these cases, it fits the definition of terrorism. In other cases, rapes are carried out by individuals against individuals
and are not committed to promote a political/social goal, not even the goal of intimidating women in general or enforcing a system of male dominance.⁴

Even though the widespread occurrence of individual rapes may produce a social system that intimidates women and supports male dominance, these rapes would not be terrorist acts because the broader effects of attacks on individual victims would be indirect, unintended effects. Michael Walzer makes a similar point about crime waves. Although crime waves may terrorize people, they are not instances of terrorism, Walzer says, because “no one plans a crime wave; it is the work of a thousand individual decision-makers, each one independent of the others.”⁵ Similarly, though widespread rape can create a hostile social atmosphere and support social structures that harm women, I would not classify typical individual rapes as terrorist acts.

Nonetheless, the overlapping features shared by terrorism and widespread rape are significant, and it is important to see the social impact of rape in addition to the harm done to individual victims. It does not follow, however, that we have to classify individual rapes as terrorist acts in order to condemn them strongly or view them as serious crimes.

Response to Sally Scholz

Although Sally Scholz makes a number of interesting points, her primary focus is on the concept of innocence. Since I define terrorist acts (in part) as attacks on innocent people, we must know who counts as an innocent person in order to identify something as a terrorist act. In my book, I discuss two views of innocence, the moral innocence view and the status view. The moral innocence view says that a person is innocent if he or she is not morally guilty or responsible for a certain action. According to the status view, a person is non-innocent if he or she is a member of a military force, a combatant while civilians are innocent.⁶

My view combines these conceptions. To be innocent, a person must not be a member of the military and must not be directly involved in fighting. In addition, innocent persons must not be responsible for whatever policies give rise to terrorist attacks. People are not morally responsible for acts and policies that they have not caused, do not play a substantial role in carrying out, and lack the power to change. One loses innocence either by virtue of playing a direct role in warfare or other relevant policies or by being a member of the military.

Sally Scholz probes carefully into many issues concerning both status and moral responsibility. She presents her ideas in the spirit of adding to my account rather than refuting it, but in fact, she raises significant challenges to it. I will respond to three points.

Innocence and Responsibility: Sally Scholz describes the moral innocence conception as a responsibility or liability model of innocence and goes on to
illuminate how complex the concept of responsibility is. At one point, she appears to challenge my view that virtually all ordinary citizens are morally innocent because they are not responsible for the policies or conditions that give rise to terrorist opposition. She suggests that if the “materialistic culture of the United States” played a role in provoking the 9/11 attacks, then even “low paid academic philosophers bear some responsibility for . . . contributing to this cultural condition.” This disturbing and, in my view, mistaken view appears to make all of us responsible for the culture we live in and seems to support Osama Bin Laden’s designation of all Americans as legitimate targets of attack.7 Some philosophers have supported this view, especially as it applies to people living in democratic countries.

We can be helped to see why this view of citizen responsibility is mistaken by a distinction made by Virginia Held. Although Held sometimes supports the view that citizens in democracies bear responsibility for their government’s policies, she also highlights the important distinction between prospective and retrospective responsibility. Prospective responsibility involves the taking of responsibility for opposing an unjust or immoral view or policy; retrospective responsibility involves being liable to blame or punishment for actions that have been done.8

We can apply this distinction to the United States initiation of war against Iraq in 2003. While I believe that more Americans should have taken responsibility and actively opposed the Bush Administration’s decision to go to war against Iraq, I do not think that most individual American citizens are liable to punishment for the Iraq War. To think that ordinary people are responsible for their society, their government’s actions, or their culture vastly overstates the power of ordinary citizens.9

Sally Scholz seems to agree about this. Having raised the idea that individuals might be responsible for the evils and excesses of their culture, she wisely backs away from its implication that ordinary people are responsible for and thus liable to attack for things that they did not cause and over which they have no control.

Terrorism Against Soldiers: Sally Scholz directly challenges the status conception of innocence and uses a counter-example against my claim that attacks on members of the military cannot be terrorist acts. My view is that attacks on soldiers cannot be terrorist acts because soldiers do not meet the status criterion for innocence. Citing the Fort Hood killings of U.S. soldiers by Major Nidal Malik Hasan, she makes the interesting point that while members of the military have a right to attack enemy soldiers, they have no right to attack their own fellow soldiers. Although soldiers are permissible targets of enemy attacks, they are innocent in relation to members of their own military group and are thus not permissible targets for their comrades.

This is an interesting and plausible view. Without denying its force, I want to suggest a few reasons for not classifying Major Hasan’s attack as a terrorist act. Suppose that Hasan had infiltrated the army in order to kill American soldiers. In that case, he might have seen his act as a contribution to fighting a war against the
United States. Or suppose, perhaps more plausibly, that he had not infiltrated for this reason but over time shifted his allegiances and came to see his membership as an opportunity for harming the enemy. In this case, he would have had dual, conflicting obligations as a member of two groups. As a soldier, he had duties to his fellow soldiers, but as an outsider, he had duties to a cause against which his fellow soldiers were prepared to fight. Although he is guilty of murdering soldiers, it might still be a mistake to see him as a terrorist because his commitment to an Islamic cause led him to kill soldiers and did not lead him to engage in a shooting spree against American civilians in a bus, a shopping mall, or some other public place.

Relationships, Vulnerability, and Immunity from Attack: Sally Scholz makes further use of the Hasan example to support the idea that moral responsibility is relational and is tied to facts about vulnerability. The soldiers in Major Hasan’s unit were vulnerable to him because there was an assumed bond of trust between them. Similarly, vulnerability can result from features like physical weakness and the inability to defend oneself. Sally Scholz mentions an insurgent attack on a hospital in Afghanistan where most of the victims were women and children in the maternity ward. The attack is especially vile, she claims, because vulnerability and defenselessness generate relational responsibility to care for people, and carrying out this relational responsibility is incompatible with launching attacks against them.

I agree with this point. People’s vulnerability can generate both positive and negative duties toward them. At the same time, we have to acknowledge that vulnerability has other relations. In war and other forms of conflict, vulnerability creates opportunities. All of the weapons of war exploit the physical vulnerabilities of human beings. They take advantage of the fact that our bodies can be injured and destroyed.

One might conclude from this that engaging in warfare and other forms of violence is simply incompatible with the existence of relational and vulnerability-based forms of responsibility and that, for this reason, war and violence are never morally justifiable.

The trouble with this conclusion is that it ignores the fact that people may confront forced choices about whose vulnerabilities to protect and whose to exploit. In cases of defensive wars, just defenders exploit the vulnerabilities of unjust attackers in order to protect the vulnerable people who are unjustly attacked. Most people see this type of defensive warfare as morally justified, and if it is, then vulnerability by itself does not generate obligations to protect. Or, if it does, then the protective obligations that we have toward some people may over-ride or cancel out the protective obligations that we have to others. Any relational theory of responsibility will have to sort out this difficult problem. When protecting the vulnerabilities of some requires exploiting the vulnerabilities of others, how do we know what is the right course of action? Is it enough that we have personal relations with some
and not with others? Or do we have duties to vulnerable strangers with whom we have no personal relationship?11

Response to Matthew Silliman

Matthew Silliman focuses on my use of a rule-utilitarian argument to defend the view that terrorism is always wrong because attacking innocent people is always wrong. He raises three main objections: first, he criticizes the view that utilitarianism is superior to deontological moral theories; second, he challenges (perhaps in a devil’s advocate role) my view that terrorism is always wrong, and third, he suggests that I should reject all warfare rather than allowing war while condemning terrorist acts on civilians.

Consequentialism vs. Deontology: While Matthew Silliman is right that I defend a consequentialist, rule-utilitarian theory and use this theory to support an absolute ban on attacking civilians, he is mistaken in his suggestion that I try to refute deontological theories. In fact, I care much more about defending non-combatant immunity than I do about clashes between moral theories. I would be happy to have supporters of deontological theories—as well as people from all other philosophical and religious traditions—working to devise arguments for noncombatant immunity so that it would be justified from as many perspectives as possible.

It is true that I criticize the views of Michael Walzer, Thomas Nagel, and other rights theorists, but that is because their attacks on utilitarianism are so unfair. They, like many others, hold the view that if utilitarianism is true, all is permitted. The standard view is that only deontological theories can support absolute prohibitions of any kind, including noncombatant immunity. What I try to show is that rights theories and other deontological views provide no automatic support for noncombatant immunity and need not defend humane rules of warfare at all. In fact, rights theorists could support any view about the ethics of war, ranging from absolute pacifism to “anything goes.” (Regarding “anything goes,” a rights theorist might hold, for example, that all people have a right not to be killed but that this right only applies in normal settings and does not apply in a state of war.)

The key questions—about which rights theorists can disagree—are: a) what rights are there? And b) how strong or weak are these rights? Can they be over-ridden or not? If they can, in what circumstances does over-riding occur? One example of a rights theorist who is very permissive with respect to the use of violence is Hobbes. Hobbes believed that there are absolute rights in the state of nature but that these rights were permissions to act and that they impose absolutely no constraints on how people may defend and promote their own interests. Everyone has an equal right to do anything whatsoever to anyone else.

I adopted a rule utilitarian approach because I did not see how to establish noncombatant immunity by using a deontological theory. I came to believe that the
rule utilitarian commitment to maximizing human well-being provided a starting point for defending rules for limiting the damage caused by war. Having adopted this approach, I needed to defend utilitarianism from its many detractors. In the end, however, my view is: let a thousand theories bloom if they can support non-combatant immunity as an absolute prohibition.

*Can Some Terrorist Acts Be Morally Justified?* Matthew Silliman challenges my view that no terrorist acts can be morally justified. He cites Ted Honderich, who argues that if one tells the Palestinians or other groups that face extremely dire circumstances, “you must not use terrorist acts to save yourselves,” this sounds cold-hearted because it fails to appreciate how bad their situation is and how limited are their means of ending their oppression.12

At a practical level, the Palestinian resort to terrorism appears to have worsened both their living conditions and their political stature in the world. It has also strengthened popular support for Israel’s most rigid, least accommodating political leaders. Here, as elsewhere, violent extremists empower other extremists and undermine the moderates who seek humane ways to solve problems.

The theoretical argument against the permissibility of terrorist tactics is simply this. In determining whether attacks on civilians can be morally justified, we need to consider the consequences of having a particular rule in a moral code. We could have a rule that says “Never attack civilians” or a rule that says “Don’t attack civilians unless you are in an extreme, threatening situation and have no other effective means of protecting yourself.” If you were choosing rules on the basis of your own group’s interests and your group was in dire circumstances, you would choose the more permissive rule. But the rules of morality are made from an impartial perspective. They are, as Richard Brandt suggests, the rules that would be accepted by “rational, impartial persons.” If the consequence of accepting the permissive rule would be more suffering for persons generally, then rational, impartial persons would not include a permissive rule for terrorist acts in the moral code.13

The correct moral code consists of those rules whose acceptance promotes the interests of human beings generally, and those rules impose constraints on how both individuals and particular human groups can promote their own well-being. Groups (including nations) in dire circumstances may attempt to better their situation in many ways, but certain ways of trying to accomplish this are forbidden because it is in the human interest to forbid them. If members of a group reply that they have a right to do whatever it takes to defend themselves, the answer to this is that they would only have such a right if it were better for humanity as a whole to grant this right for all people.

Note, too, that the cold-heartedness charge only appears plausible if we focus on the suffering of one side and ignore the suffering of the other. Just as disapproving of terrorist acts that are carried out to end oppression appears cold-hearted toward suffering by Palestinians, approving of Palestinian terrorism appears to
be cold-hearted with respect to the suffering of Israeli victims of terrorist attacks. The cold-heartedness charge gets us nowhere. Sympathy for sufferers cannot determine what is permissible when people on both sides are suffering. For that, we need an impartial perspective like the one used by rule utilitarians.

The Wrongness of War. Matthew Silliman’s final challenge is his more deeply felt claim that I ought to reject warfare entirely and not limit myself to rejecting attacks on civilians. I am very sympathetic to this view and have always found it attractive. I nonetheless have never seen how to justify the pacifist claim that war is always wrong.

For the most part, the discussion in my book rests on the assumption that warfare can be justified and focuses on the question of whether the ethics of war permits or forbids terrorist acts. One of the motivating questions of my book was a question in non-pacifist ethics. Can people consistently condemn terrorism for killing innocent people while approving of some wars, even though wars almost inevitably cause the deaths of innocent people?

One topic that this leads to and that is not raised by my commentators is the difficult problem of collateral damage killings and injuries to civilians. In my book, I criticize traditional just war theory for its use of the principle of double effect and try to show that this principle supports an overly permissive approach to acts that kill civilians but are not intended to do so. I argue for a view that is found both in international law and in Michael Walzer’s treatment of this issue. According to this view, not intending to kill civilians is not enough. Rather there is a strong duty to avoid civilian harms when possible and to minimize these harms when they are unavoidable. It follows from this view that some acts that unintentionally cause civilian deaths are morally permissible and others are not. Wars can differ morally from terrorism and can be justified if civilians are not directly attacked and if serious efforts are made to protect civilians from harm.

Although justifying war itself is not a major aim in my book, I briefly sketch a rule utilitarian argument for the moral permissibility of war. Suppose that rational impartial people were choosing between a rule in our moral code that sometimes allows the use of war and a rule that prohibits it in all cases. If accepting a rule meant that there would be perfect compliance, then we might maximize utility by adopting pacifism. But we can predict that even if this rule were adopted, there would probably be people who would violate it by using violence to achieve various kinds of gains.

The question would then emerge whether our moral code should allow defensive warfare by those who are the victims of aggression. A rule utilitarian could plausibly argue that a rule permitting defensive war would support human well-being rather than one that forbids warfare entirely. The reason is that a rule that permits violent resistance to aggression can provide a deterrent to aggressive war. Countries contemplating aggression will know that resistance by the attacked group
will raise the costs of aggression and may result in the failure of their aggressive plans. Even if warfare were morally completely banned, some aggressors would still use it, and our moral code should allow its victims to resist in order to provide reasons to potential aggressors not to use war to promote their national interest.

Matthew Silliman’s objection provides an important reminder of the downsides of accepting the idea that war can be morally justified. Even if my argument succeeds as a moral defense of warfare, history shows us that war is a crude, cruel, and costly means of protection. It is in the interests of humanity that we make serious efforts to develop alternative methods of avoiding and resolving the kinds of conflicts that can lead to war. Until that occurs, attempts to put civilians outside the boundaries of permissible targets can go some way toward limiting the horrible damage that wars cause.15

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Notes


2. Most of the ideas I discuss here are developed more fully in Terrorism and the Ethics of War.


8. See, for example, Virginia Held, What Makes Terrorism Wrong (New York: Oxford University Press, 2008), 20. For a critique of this view, see Robert Sparrow, “Hands Up Who


12. Uwe Steinhoff makes a similar point, referring to the “appalling lack of empathy” in those who condemn all terrorism; see his *The Ethics of War and Terrorism* (Oxford: Oxford University Press, 2007), 134.

