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Lecture Notes: War

While terrorism seems impossible to justify, it might not always be illegitimate.
The history books are written by the victors, and yesterday's terrorists may be today's diplomats.
This is especially so, since anyone may allege that their opponent is a terrorist.
Thus, the apartheid South African government had labeled Mandela a terrorist.
Consider the Middle East, and you can see how the definition of terrorism depends on your viewpoint.
It's been interesting, over the past couple of years, to see the comparisons of CNN, e.g., and Al Jazeera
It would be nice if we could arrive at an objective definition.

Frey and Morris characterize terrorism as follows:

1. Creating terror and fear within a population
2. Random or arbitrary use of violence
3. Targeting of innocents, or "non-combatants"

Each of these characteristics may, though, describe war more generally, as well.
Especially if Wasserstrom is wrong about moral nihilism in respect to war.
That is, if there is no morality in war.
Notice that the U.S. army consistently denies that they do these things when discussing their conduct.
As a practical matter, it would seem that, to a bystander, a citizen of a warring country, that all three of these characteristics would apply.
An average Afghani, over the last two years, probably suffered from all three.

So, is there any defense for terrorism, and for war, more generally?
If we can find a defense for war, we might extend this to terrorism.
If we find a defense of terrorism, that will certainly cover war more broadly.

Frey and Morris consider a consequentialist defense of terrorism.
On a consequentialist calculation, the ends can certainly justify the means.
If you murder one to save ten, the net result is nine lives saved.
But they point out that most consequentialists are universalists, so that one must count all persons equally.
Add to that the likelihood of ineffectiveness, of hardening the opposition, and the less red-column alternatives (passive resistance, civil disobedience) and you're likely to find no consequentialist justification.
If the goal is to rectify injustice, the creation of more injustice, when coupled with universalism, just makes matters worse. (p 108)

It might be better to consider a Kantian defense.
Prima facie, this seems even more unlikely.
Kant's respect for persons seems to debar acts of violence.
But there might be a loophole.
If some one has abridged the CI, the community, in this case the world community, has a responsibility to punish the offender.
So, it might be that terrorism, like war more generally, might be justified on Kantian grounds.

The questions of the justifiability of terrorism and the justifiability of war, more generally, may thus hinge, in large part, on the questions of innocents.

Consider the status of English citizens to the IRA, or Israeli citizens, to the PLO (especially the settlers). Also, if we can make any distinction between war and terrorism, or perhaps between legitimate and illegitimate acts of war, it is likely to be in terms, at least in part, of the killing of innocents.

Wasserstrom 118

The philosophically interesting point, here, is whether there is any legitimate way of characterizing innocence with regards to war, or war-like aggression.

Abstract analysis of 'innocence':

Frey and Morris point out that there are two senses of the term 'innocent'.

On the 'moral' sense, an innocent is some one who is not responsible for wrongdoing.

On the 'causal' sense, an innocent is one who does not pose any threat.

We can affirm that some citizens of an enemy are morally innocent, and still deny their causal innocence.

Thus, as a mere principle of self-defense, we may harm those who are morally innocent, if they are not causally innocent.

For example, consider the booby-trapped infant.

In determining whether an enemy is a legitimate target, for any attack, whether 'terrorist' or not, one might appeal to the causal sense, even if the moral sense fails.

Concrete analysis of 'innocence':

We can't easily define 'innocent' as 'non-combatant'. (Relying on both Wasserstrom and Frey and Morris, here.)

Workers in munitions plants, farmers who grow food for the army, and doctors and nurses who rehabilitate soldiers for further combat all contribute to directly to the war effort, even if they aren't combatants.

We also can't make the distinction on the causal connection to war.

Some soldiers might not be productive to war effort, but we can't in any practical way distinguish them.

Some civilians would have such a connection, others wouldn't.

We can try culpability, but that's tricky, as well.

People who aren't involved in the war effort may be responsible for its arising.

Electoral, financial, and tacit support prevent anyone from being deemed innocent.

It looks like there is no good way to determine innocence.

Given that killing innocents is obviously wrong, we have two possible conclusions:

1. Thus, war, and consequently terrorism, are unjustifiable.

Wasserstrom calls this the absolutist view, attributes it to Anscombe, p 120.

The killing of innocents is inevitable, no matter how we define them.

E.g. children, the powerless infirm.

Killing of innocents is wrong.

This makes war obviously immoral.

This view is implausible.

We shouldn't fight WWII because a German baby might die?

What about a more moderate view? p 119

2. Thus, we will have to look towards gradations: fighting a war is always morally bad, but some wars are worse than others.

Warlike actions may not be thoroughly justified.

But we can distinguish between more and less justifiable actions.
This more moderate view is more plausible.
Even so, it eliminates the use of nuclear weapons.
For, the indiscriminate killing of large numbers of people can never be justified.
Even if we can't generate an airtight definition of innocence.

Wasserstrom believes that we can implement a notion of morality with regards to war.
He thinks there may be moral justifications of war.
He rejects the claim of *moral nihilism in respect to war*: There is no morality in war.
This claim can have three different interpretations:

1) Descriptive interpretation: it just doesn't come up.
In other words, this claim is that that's not how we do things.
This is not a reason to give up on morality in war, even if true.
Maybe we should think about morality in war, even if we don't.

2) Prescriptive interpretation: one shouldn't think about morality in war.
Consider the national-interest argument.
Acheson quote, p 112; and Truman quote, p 114
The obligations of president and staff may demand ignoring morality.
Consider also social-role morality: our moral duties vary depending on our social position.
E.g. lawyers and clients, corporate exec and shareholders.
On social-role morality, the president has different moral duties than the rest of us.
But you need a backdrop of morality to develop social-role morality, p 115a.
A different morality is still morality.
Even if the rules are different, we can still make gradations.
This social-role morality can't support the prescriptive interpretation.

3) Analytic interpretation: war is immoral by definition.
Like 'Bachelors are unmarried'.
This interpretation allows one to avoid the hard questions.
But it's not necessarily this way.
Surely, killing and other acts which are normally impermissible are allowed in war, but that doesn't mean there's no background of morality.
We might be misled by 10 Commandments-type morality, e.g. absolute rules against killing, to thinking that this means that war is necessarily immoral.
Better to look at a utilitarian analysis.
The analytic interpretation doesn't hold, and so doesn't support moral nihilism.

None of these interpretations are viable, so Wasserstrom rejects moral nihilism with respect to war.
If we accept that there can be moral justifications of war, and morality within war, we are left to assess the moral justifiability of particular wars. (115b)

Wasserstrom asserts that there are three ways to evaluate the morality of a war.
(It's really two and a half. The third is really a sub-question of the second.)

1) Are rules of war followed?
E.g. It's better to have less killing, no looting, avoid torture.
We can create guidelines with a basis in morality, even though we are giving up normal moral precepts, e.g. don't kill.

Look to non-civilian targets (avoid hospitals), even in the absence of a firm 'innocents' delineation.

2) Does the war have a just cause?

These can be either backward- or forward-looking.

Backward-looking:

a) Treaties either to go or not go to war.

But this is insufficient.

We sometimes should break our promises.

NATO partners have to think about this one.

b) Punishing aggression.

Iraq and Kuwait

The terrorist attacks of 9/11 certainly are the result of aggression.

But punishing is a Kantian consideration - giving some one what they deserve.

Aren't the real justifications utilitarian?

Should we be the source of just punishment?

Forward-looking

Is the goal a good one?

These are basic consequentialist calculations, looking to deterrence, instead of punishment.

2b) Is there a self-defense justification?

This is another forward-looking consideration.

The *Doctrine of Self-defense* states that you may use any means necessary to defend yourself from harm, but no more force than is necessary to repel an attack.

Proportionality clause: You should use no more force than necessary to prevent comparable harm.

You may not kill a person to prevent him from stealing a radio.

Corollary: You can not invoke self defense when escape is possible.

Possible exception to the corollary: You may use force in lieu of escape when escape means abandoning your property.

But there are theoretical problems applying the doctrine of self-defense to war.

There is an awkward anthropomorphism: treating countries as individuals is odd.

What is escape?

This couldn't justify a full-out war, it would contradict the limit on force.

Nor a demand for unconditional surrender that war usually entails.

These all make the application awkward, but not completely implausible.

There are further considerations, though, which seem to really undermine this application:

How do we know what will prevent the harm?

The prototypical application of the doctrine of self-defense is a mugging, or similar.

Self-defense would justify shooting down the planes as they headed toward the towers.

If people are attacked and threatened, and one wants to justify merely repelling the attack, such a defense can be used.

Self-defense can not be used as a justification for preventative measures.

E.g. Iraq's possible nuclear weapons program.

Here we have to look at something else forward-looking, like pre-emption.

Summary: a just war is one which has some theoretic justification and which is fought by minimizing violations of ordinary morality.