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Redefining
the War on Terror

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Table of Contents

Introduction

        Much of the discourse surrounding the War on Terror, the United States' and allies' military actions in the broader Middle East, is operating under the assumption of two incorrect principles, impeding any chance of fruitful discourse. These assumptions are first: that the United States is waging a conflict that can be referred to and recognized as a war along the conceptual lines of a legal or just war. And second: that the presence and hostility of Middle Eastern insurgents is considered without any of the historical context necessary to engage with them not as arbitrary legal enemy combatants, but as a product of decolonization outside the realm of Just War military classification, and as a human rights crisis.

        These two assumptions, or generalizations in basic understanding of the conflict undermine the possibility for generative discourse, as any approach among Just War terms won't find many actions on the NATO side to fall in line with legal combat, and any ignorance of the post-colonial reality of the Middle East when diagnosing or prescribing action creates the risk of exacerbating or elongating decolonizing violence. A careful and considered approach is thereby necessary to analyze the conflict in a more nuanced and philosophically rigorous sense than has been applied at the macro level, to the extent of my awareness. There doesn't appear to be any one manner from which to solely approach this topic, so different methodologies and schools of thought will be considered and integrated into this thesis in an attempt to redefine the terms of the conflict, and organize a multi-faceted, but unified, whole of understanding.

        This thesis is to first provide working definitions of terrorism and violence. Then second, to regard and review the actions and political and legal considerations that the United States has made with the intention of arguing that there are few, if any, features that legitimize the conflict as a just war under philosophical and ethical considerations of the term, and is instead a series of deliberate acts of state terrorism and human rights abuses. Then lastly to apply post-colonial theory to the history and development of militarized action by the natives occupying the Middle East region. In short, concentration is on the broader circumstance of the War on Terror.

        In the first chapter, *On the Definition of Terrorism*, time will be spent first defining and clarifying the terminology necessary for the analysis of the next two larger sections, pertaining to the state and the insurgent in the War on Terror. With assistance from Albert Camus and, to a lesser degree, Jean Baudrillard, work is made to develop meaningful and expanded definitions of

what features and ethics compose three distinct types of terrorism: individual terrorism, state-sponsored terrorism, and state terrorism. Following this, there is an analysis and adaption of Hannah Arendt's study on violence to the context relevant to the thesis. The chapter is concluded by addressing the framework of Michael Walzer's Just War theory and its historical place within the canon of dialogue within political philosophy in regards to the War on Terror.

The second chapter, *On State Terrorism*, serves to expand greatly upon the definition proposed in the previous chapter of state terrorism, both its features and ethics, as well as how it has manifested specifically within the realm of the War on Terror. The first section, *On Terrorism as it Concerns the State*, develops the definition of both terrorism and state terror to philosophically satisfying and useful extents. With the aid of Igor Primoratz' philosophical studies on terrorism, a foundation of basic terms is developed first, in order to inform and unify all further analysis and theory. The fourth section of this chapter, *On the Sovereign, State of Exception, and the Homo Sacer*, attempts to define what philosophical precedents and areas of political thought that allowed for the War on Terror to become organized in the manner that it is. Here, focus is on two texts in particular: Carl Schmitt's *Political Theology* and Giorgio Agamben's *Homo Sacer*, and success is found in defining certain key aspects of the War on Terror along the constraints of the concepts put forth by them. The fifth section, *On Torture*, draws from analysis by Tzvetan Todorov in order to utilize this chapter's analysis within a case study of torture and its application, before closing the chapter with concluding reflections.

The final chapter, *On Decolonization as Essential to Insurgent Terrorism*, addresses the issues in discourse on the insurgents and individual terrorists and terrorist groups implicated in the War on Terror, and works to reframe the context of their insurgency away from that of an equal opponent in a just war, to that of the violence of the oppressed and the oppressor that occurs within the colonial and post-colonial context. The first through third sections look critically at history, with the help of Franz Fanon and Homi K. Bhabha, and deconstructs the features and content that define colonial structures, the violence occurring between a dominant controlling body and its subaltern, and later specifically at how the divide that's found between the oppressor and the oppressed transitions into violence and rebellion as means to liberation and nation-founding, as well as a later look at Michael Hardt and Antonio Negri's concept of Empire. *Reflections on Terrorism* synthesizes the main constituent features of a campaign of post-colonial violence and rebellion in an argument stating that post-colonial analysis is essential to redefining the War on Terror.

I
<u>On the Definition of Terrorism</u>

Terrorism is a means of warfare that extends far beyond the actions of an individual or small group with the aim of disrupting infrastructure or collapsing the morale of an enemy by violent means. While the common conception of a terrorist is one of a politically, religiously, or ideologically motivated, small guerrilla force acting against a perceived oppressor or imperialist state; the historical occurrences of terrorism have far more diverse than just these kinds of scenarios. Terrorism's use of violent or militaristic actions have had aims and effects more nuanced and complex than merely inflicting terror for terror's sake. It is a political and sociological phenomenon which is unique to each circumstance; an engagement in power structures, geopolitics, history, and society.

In two parts, the distinctive forms in which terrorism has manifested, as well as the language, that of violence, which terrorism utilizes will be analyzed. For the purposes of the analysis and the entire project as a whole, terrorism as a historical phenomenon will be relegated and constrained largely to the late twentieth and early twenty-first centuries as it occurred between the United States and the Middle East. There will be parallels drawn and points supported with the precedents set by conflicts in other countries, namely Nicaragua, but the concentration on the Middle East conflict is deliberate. The extended length of the conflict, and the reliance on terrorism as a primary means of engagement is unique in history. Resulting from this, there is a development of the act of terrorism that allows for a more complex understanding of the dynamics within the political and social relationships that occur between its aggressors.

Terrorism has never existed as an isolated incident, nor does it occur spontaneously. The genesis of terrorism lies in the intent to wage war not just against a foreign army, but primarily against foreign society or ideology. The intended victims don't necessarily have to be armed combatants, and this is where terrorism differs from standard warfare. Instead, civilians, prisoners, buildings such as schools, hospitals, and manufacturing plants, or strategic areas and whatever collateral damage will come from attacking them have all been attacked. But these aren't the targets, only the victims of the violent means of terrorism; the target is a society as a whole and *this* is a unique characteristic of terrorism. Rather than the functional aim of violence being the eradication of an enemy combatant, the functional aim of terrorism is the attack on a society.

There are three species of terrorism that make concentrated attacks on the integrity of a society possible. The first is the most commonly referenced form of terrorism: individual terrorism, the actions of an individual or small group of individuals who, by primarily violent means, attempt to achieve their ends. Second, state-sponsored terrorism, being the sponsorship or deployment of an armed force separate and politically distinct from the state that is, often covertly, supplying them with arms, funds, or information necessary to wage terror. Third, state terrorism. Distinct in scale and means from individual terrorism, the actions of a state committing acts of terror on another nation includes, alongside the acts of violence, a deliberate shaping and controlling of the information and politics surrounding the circumstance to justify their actions on a global scale.

I. Terrorism
i. Individual Terrorism

"We can act only in terms of our own time, among the people who surround us. We shall know nothing until we know whether we have the right to kill our fellow men, or the right to let them be killed. … We cannot act until we know whether, and why, we have the right to kill." (Camus 1951, viii) Answering Albert Camus' question why, precisely one might have the right to kill in a given circumstance is central to understanding acts of terrorism. In the case of individual terrorism, Camus' *The Rebel* allows insight specific to the nature of oppression and the counteracting struggle that results from his experience with the Algerian War. In a state of oppression, the voices of those who are oppressed are naturally silenced through legitimate, ie. legal or political means. Or at best, they are hindered in such a way that legitimate means cannot satisfactorily alleviate the oppressive force.

This can be due to any number of reasons, such as the stifling of rights or mobility, or existence under a dominant society that is utterly indifferent to rights or aims of oppressed groups. Therefore, violence, and the resulting death that follows, is imbued with the values of their ends, and hope is placed on an outcome that would have justified the violent action. "Rebellion cannot exist without the feeling that somewhere, in some way, you are justified. … [The rebel] stubbornly insists that there are certain things in him which 'are worthwhile …' and which must be taken into consideration." (Camus 1951, 1) Rebellion is the conscious acknowledgement of a refusal to tolerate unjust or intolerable conditions that they have been subjected to live under. In rebelling, one is putting to the forefront their commitment to a

"standard of values so far from being false that he is willing to preserve them at all costs." (Camus 1951, 1) The roots of rebellion are essentially humanitarian in nature, the contradiction being that the means to fight against them are not.

The initial means for the justification of violence in the case of rebellion comes from the belief that certain rights carry an intrinsic value greater than one's own life. "As a last resort [the rebel] is willing to accept the final defeat, which is death, rather than be deprived of the last sacrament which he would call, for example, freedom. Better to die on one's feet than live on one's knees." (Camus 1951, 3) And as history has shown, people are willing, time and again, to struggle against oppression and for values they deem necessary for a full life at the cost of others' or their own lives. "Violence, for every one of them, is directed only against the enemy, in the service of the community of the oppressed. … Henceforth, violence will be directed against one and all, in the service of an abstract idea." (Camus 1951, 112) Community is a social unity between people; it is solidarity. By aligning oneself with the community of all other likewise oppressed, the rebel hopes to incite greater change in the image of the values they are willing to die, or kill, for. "Revolt does not occur only amongst the oppressed but that it can also break out at the mere spectacle of oppression of which someone else is a victim." (Camus 1951, 4) If the silent, or unvocalized, suppression of rights has thus far, up to the time just before the act of violence, resulted in no significant or meaningful change in the state of oppressed, the last resort can be to create a spectacle in which the world is confronted with their injustice.

There comes a boiling point which for some, makes violent action appear necessary. Having tried and been suppressed of enacting change by other means, violence appears as an inalienable language for their voices to be heard, without distortion, between cultural or social divides. "This is the point at which the terrorists are born, disillusioned with love, united against the crimes of their masters, but alone in their despair, and face to face with their contradictions which they can only resolve with the double sacrifice of their innocence and their life." (Camus 1951, 115) The contradictions are not hidden from those who commit acts of terror, and there is a conscious choice to compromise with the basic right of life in order to aim to secure that right of life for themselves.

Unfortunately, terrorism, unless somehow proving effective in inciting the ultimate change intended the very first time it strikes (which has never been done in history), continues to strike violently until another means is presented to them. This is why the common defense levied towards specifically Islamic terrorist actions in the Middle East, that "Islam is a religion of peace", is both true and irrelevant to this situation. The religion, is, of course founded on

principles of peace and community. However, the value of the end goal that they are fighting for far outweighs any perceived value on the loss of life until that time. They can be understood to be fighting for the goal to be able to practice Islam in a free, self-determining and respected manner that does not yet exist for them. "Confronted with the possibility that the idea may be realized in the future, human life can be everything or nothing. The greater the faith that the estimate places on this final realization, the less the value of human life. At the ultimate limit, it is no longer worth anything at all." (Camus 1951, 120) Developing a thorough understanding of the functional aspects of individual terrorism allows for more nuanced understanding of the development of the insurgents in the War on Terror. The Taliban aimed to create a society to support and make manifest a radically conservative Islamic state. It eventually splintered, with many of its leaders going on to form or join with ISIL, the Islamic State of Iraq and the Levant, and establish the largest terrorist force, and society, in the world today. Having now a realized and organized society, the actions of violence have been shown to continue against their own people. It has been a state of martial law, with all those within it living in a state of terror. "The revolutionary is simultaneously a rebel or he is not a revolutionary, but a policeman and a bureaucrat who turns against rebellion. … Every revolutionary ends by becoming either an oppressor or a heretic. In the purely historical universe that they have chosen, rebellion and revolution end in the same dilemma: either police rule or insanity." (Camus 1951, 194) And ISIL, having the chance to realize a society, has elected only to sustain the level of violence internally as they commit externally. It is not a not a creative, liberatory ideology. Without just recompense for their crimes, they are neither rebels nor revolutionaries. They are terrorists; they are criminals.

ii. State-Sponsored Terrorism

State-sponsored terrorism is a form of terrorism unique to the twentieth and twenty-first centuries. Historically, the sponsorship of one army by another, or a mercenary force by an army, was a straightforward affair. If the conquest or defense of a nation was victorious, their actions were understood as just, or did not have to be justified, and the matter was settled in victory. Likewise, if they lost, the conflict was again settled and one or both had to rebuild, or answer to a new principality. Given the more complex and connected nature of politics in the post-information age, the practice of pitting one group against another, or the allied support of one country for another in conflict, has become more difficult to justify on the international stage. For support to be public and legal, there are international courts and allied treaties in place to guarantee the legality and humanitarian-minded nature of conflicts and their supporters.

Despite this, there have been cases where allies have publicly declared war, like the United States and Britain declaring war on Iraq, while other allies, like France, decline their support in the face of human rights abuses or questions of their legality. Also, and more frighteningly, some nations have elected to proceed with secretive military support, such as the United States' support of the Contras facing the Sandanistas in Nicaragua, or the Mujahideen opposing the Soviet Union in Afghanistan. In these latter situations there emerges a very clear power dynamic: a larger force supports a rebellious force in the revolution of a nation or the struggle against a common enemy. "A revolution is an attempt to shape actions into ideas, to fit the world into a theoretic frame. That is why rebellion kills men while revolution destroys both men and principles." (Camus 1951, 59) It's a war of the principles not just of the rebellious force, as their force would have been more than likely, barring extreme circumstances of luck, quashed by their aggressor. But it is even more a war of the principles of the sponsoring nation and the principles of the nation being rebelled against. "The libertine justifies individual terrorism, the high priest of virtue, state terrorism." (Camus 1951, 76)

In 1985, United States President Ronald Reagan declared the Contras in Nicaragua to be "the moral equivalent of our Founding Fathers." With the ideology of international affairs being secular, the "priests of virtue" for the US are its presidents. In both cases, the root principles being brought into war are the United States' brand of democratic imperialism by way of supported rulers and trade partnerships, and the Soviet Union's expansion of communism. Without a "hot" war to prove the valor and justness of either principle on the global scale, the Cold War gave rise to numerous proxy wars around the world, where the US and Russia were able to battle out their ideology and willingness to extend wealth and weaponry to opposing forces to disastrous effect on the nations they took place in. The advantage to waging a proxy war, however secretively or not, is the plausible deniability that is granted in the chance to distance oneself, as a nation, from the actions occurring in another by non-nationals, in the eyes of the international community. As shown in the case of the Nicaraguan Contras, wherein after it became irrefutable that they were committing hundreds of acts of terrorism and torture, the push to defend and portray them in a positive light in the American press ceased, and the Reagan administration did all they could to hide evidence of their support. (Kornbluh & Byrne, 1993)

The fallout from the Mujahideen, however, was not so final. After pushing the Soviet forces out of Afghanistan, some Mujahideen leaders went on to fight in various liberation efforts across the globe, such as in Myanmar (then Burma) and Kosovo, while others went on to form the Taliban whose history and aims have been discussed previously.

The true terror here comes from the expendability of anonymous, faceless lives of the citizens of nations that the United States' government has no formal means of providing aid within. Reagan effectively practiced what Camus would describe as distinguishing "between categories of revolutionaries, with those in the first category (by which he means the leaders) reserving the right to consider the rest as 'expendable capital'." (Camus 1951, 113) The use of others as human capital, and therefore expendable, as the means by which wars of principle are being fought is the definition of being a leader of terrorists, by Camus' reckoning. There is no responsibility to provide for the families of those who lost their lives, nor of an incentive to rebuild in the event that they lose.

No better example for the consequence that proxy action can have on the stability of a region than with American government's relationship with Saddam Hussein. As contemporary French philosopher Jean Baudrillard wrote on this:

> "As with every true dictator, the ultimate end of politics, carefully masked elsewhere by the effects of democracy, is to maintain control of one's own people by any means, including terror. This function embodied by dictatorships - that of being politically revealing and at the same time an alibi for democracies - no doubt explains the inexplicable weakness of the large powers towards them. Saddam liquidates the communists, Moscow flirts even more with him; he gasses the Kurds, it is not held against him; he eliminates the religious cadres, the whole of Islam makes peace with him. Whence this impunity? Why are we content to inflict a perfect semblance of military defeat upon him in exchange for a perfect semblance of victory for the Americans? This ignominious remounting of Saddam, replacing him in the saddle after his clown act at the head of the holy war, clearly shows that on all sides the war is considered not to have taken place."
> (Baudrillard 1995, 71)

The meddling in both Central America and Iraq, during their proxy phases, were entirely efforts of opportunity. America never sought to liberate Nicaragua for the betterment of its people and future, but only to install, as it did repeatedly throughout Central and South America, a dictator or ruler through which they can have control over the region and its resources. The same goes with Saddam, who established a trade connection with the US to Kuwait's oil fields, and fought to push back the Iranian expansion using US weapons. The same weapons levied against the US during its repeated invasions of Iraq between 1990 and 2011, which resulted in the once-ally Saddam being hung for crimes that amount to disobedience towards the US. There was little real interest in destroying his regime for the human rights abuses that were once favorable as a mode of controlling the region by proxy. (Baudrillard, 1995)

iii. State Terrorism

Once the US invaded Iraq, it made the transition from sponsoring terrorism on behalf of the state to committing acts of terrorism on the state level. That being, the deliberate effort or execution of a state military force to commit acts of terrorism upon or within another nation. Differing from individual terrorism, there is no oppressive force against which they are in rebellion. In this case, they are the oppressor. And instead of engaging in a legal war, being an engagement with clear objectives and the just confrontation of one army against another with a clear victory state, the United States chose a different path. They made generous use of elaborate bombing campaigns of targets both real and virtual, misinformation and gluts of erroneous information which allowed military campaigns to be carried out with little understanding of purpose, and the establishment of extralegal prisons in which torture and indefinite imprisonment could be carried out.

With the invention of real-time, constant coverage of the US' efforts in the Middle East, the non-stop exposure to images of war was made available at an unprecedented volume, and what came with it was the ability to sanitize and make meaningless the actions of violence and terrorism. When a nation prides itself as being a force for good, and allies itself with those on the side of human rights, it has to get creative when it begins to commit terrorism. It has to justify, in the hearts in minds of those in and outside its borders who can hold the state accountable to its actions. It has to be able to convince others that it is right and honorable in the actions that it regrettably, and necessarily, has to take. Or, as the US also chosen to do, it can create a discourse so confused and twisted in itself, that very little truth can be ascertained from the situation. "Awareness of the absurd, when one undertakes to deduce a rule of action from it, makes murder seem a matter of indifference, hence, permissible. If one believes in nothing, if nothing makes sense, if we can assert no value whatsoever, then everything is permissible and nothing is important. There is no pro or con: the murderer is neither right nor wrong." (Camus 1951, ix) The US achieved this level of absurdity with directives aimed at incredibly abstract notions of freedom through the spread of democracy, and stabilization through endless waves of bombs and destruction of infrastructure. Consider Baudrillard's understanding of and elaboration on this phenomenon:

> "Promotional, speculative, virtual: this war no longer corresponds to Clausewitz's formula of politics pursued by other means, it rather amounts to the absence of politics pursued by other means. Non-war is a terrible test of the status and the uncertainty of politics, just as a stock market crash (the speculative universe) is a crucial test of the economy and of the uncertainty of

economic aims, just as any event whatever is a terrible test of the uncertainty and the aims of information. Thus "real time" information loses itself in a completely unreal space, finally furnishing the images of pure, useless, instantaneous television where its primordial function irrupts, namely that of filling a vacuum, blocking up the screen hole through which escapes the substance of events." (Baudrillard 1995, 30-1)

This selection reveals the core of Baudrillard's thesis. The foggy promise of freedom, liberation, of defense against weapons of mass destruction, the establishment of democracy, and of peace in the Middle East were all intentional acts of misdirection, each with their own element of subtle half-truth enough to allow the core motivations to slip by unchallenged by the civil population before it was far too late. The supreme waterfall of information clouded any chance to communicate the intentions of the war, with empty images of conflict, devoid of context and meaning, with statistics of losses and gains that shift daily, and reports of villains being killed or detained or dropping silent entirely. This created a parallel universe wherein bombing campaigns can be "unleashed for twenty four hours. Long since there was nothing left to destroy. Why then? In order 'to cover the noise of the armoured columns advancing towards the front by the noise of the bombardment.' Of course, the effect of surprise must be maintained. The best part is that there was no longer anyone there, the Iraqis had already left." (Baudrillard 1995, 53) But hitting any real targets was never the concern. This sort of spectacle served a twofold purpose: it created a scenario of constant and overwhelming fear and paranoia in Iraqis, and provided plenty of news footage that shows that something, no one's absolutely sure what thing is happening exactly and why at the time, but *something* is happening to justify its continued existence for the people, domestic and abroad. It is under circumstances such as these that a hospital staffed by foreign aid workers can be bombed without question or doubt beforehand.

In 1984, the United States opted to exclude itself from the ratification of the United Nations Convention against Torture until they redefined torture in a manner that excluded their arbitrarily defined means of interrogation and intelligence gathering. (Todorov, 2009) In the establishment of both Guantanamo Bay and Abu Ghraib prisons, the United States government created prisons in this manner. Prisoners of a conflict of principle and ideology "must die dishonored or no longer exist— neither in life nor in death. In the latter event, the victim does not die, he disappears. If he is punished, his punishment would be a silent protest and might cause a fissure in the totality." (Camus 1951, 185) In the prisons mentioned, there are classifications of criminals who are invisible to international law. They do not fall under any human rights jurisdictions, and have been effectively erased from any record of them ever existing. "In this process, the hostages are once again revealing. Extracted like molecules in an

experimental process, then distilled one by one in the exchange, it is their virtual death that is at issue, not their real death. Moreover, they never die: at best they disappear." (Baudrillard 1995, 27) The people who have been subjected to indefinite incarceration and torture have ranged everywhere from Afghani taxi drivers, local Iraqi farmers, children and petty thieves all detained alongside the occasional high-ranking terrorist. (Golden, 2005) Again, this serves two purposes: to create a state of fear in the Middle East where no one can be allowed to feel secure in their homes or freedom, as well as a means to fight ideology the only way it can be fought. Through absolute negation and annihilation, lest their fellow detainees remember that they're human and therefor have purpose and meaning and then rebel.

One major flaw with conducting elaborate campaigns of terror is that it can have the opposite intended effect. Where suppression and destabilization can be the goal, the inverse, the solidarity created by the suffering of those victim to the campaign, can rise up in rebellion. Thus, giving birth, once again, to individual terrorism. "Thanks to this war, the extraordinary confusion in the Arab world is in the process of infecting the West—just revenge. In return, we try desperately to unify and stabilise them in order to exercise better control. It is an historic arm-wrestle: who will stabilise the other before being destabilised themselves? Confronted by the virulent and ungraspable instability of the Arabs and of Islam, whose defence is that of the hysteric in all his versatility, the West is in the process of demonstrating that its values can no longer lay claim to any universality than that (extremely fragile) of the UN." (Baudrillard 1995, 36) Out of this, a cycle of terror is born without a realistic expectation for its end. Despite pulling out of Iraq in 2011, there are still unmanned drone bombing missions carried out daily, and ISIL has evolved to include information warfare and global recruitment efforts. Both continue, as Baudrillard observed, to engage in a race to destabilize the other first, with seemingly, realistically, no end in sight. A circle appears where destabilization results in reinforcing ideology by creating solidarity in insecurity. It's a circle that cannot be broken until every last man on one side, or the other, is utterly broken or annihilated.

II. On Violence

When Hannah Arendt penned *On Violence* in 1970, she was primarily concerned with student demonstrations and the relationship between violence and power. From this basis, she connected the power dynamic that is challenged by violence, its social force, to that of violence as means in all areas. In the essay, Arendt stresses the importance of understanding violence as a

tool, a functional means of expression that can challenge established power structures and authority to the point of toppling them. Her claim, that violence can challenge authority but not establish it, is meaningful in the attempt to analyze the creative and expressive aims of terrorism. Violence is, in many ways, the language of terrorism that allows those with no other means of protest of achieving individual aims of ideology or rebellion, and it is then therefore necessary to fully understand the function and means of terrorism.

Arendt's analysis centers on the definitions and strict differentiation between five words often surrounding dialogue concerning violence. The first being the one most often confused or (mis-)used interchangeably with violence: power. "*Power* corresponds to the human ability not just to act but to act in concert. Power is never the property of an individual; it belongs to a group and remains in existence only so long as the group keeps together. … The moment the group, from which the power originated to begin with (potestas in populo, without a people or group there is no power), disappears, "his power" also vanishes." (Arendt 1970, 44) Power is the concern of the state or controlling body of a given people or ideology. Power is the potential for action that is made great by the combined faith in the power's legitimacy. Not all those who grant power this ability are able to wield it themselves, but without the combined will of those supporting them, the person or people authorized to put this power into play has no power to put into action. "Power is indeed of the essence of all government, but violence is not. Violence is by nature instrumental; like all means, it always stands in need of guidance and justification through the end it pursues." (Arendt 1970, 51) Power is a collective effort, such as the power of the US government granted by its citizens and military, or the power of a terrorist leader who leads those wholly invested in their ideology. Without its citizens, the US has no power, and without their followers, a terrorist leader has none as well.

The next two are strength and force. "*Strength* unequivocally designates something in the singular, an individual entity; it is the property inherent in an object or person and belongs to its character, which may prove itself in relation to other things or persons, but is essentially independent of them." (Arendt 1970, 44) The potential energy that power grants the President of the United States allows them to command great displays of strength. And likewise, it is the energy that allows a single person, like that of detainees committing themselves to a hunger strike to great effect, to affect such change. Strength is not derived from power, but it is a tool that power can utilize, just as the detainee commands great strength in their resolve. It is important then, to differentiate strength from force, which is defined as a phenomenological circumstance. Force can be derived from means above a person's control, and cannot be

controlled by any individual or group, and is different from using violence or power in coercion. Force indicates "the energy released by physical or social movements." (Arendt 1970, 45) That is, to use an example, the social force of change that can come about following the aforementioned detainee's successful protest, wherein a large number of people are persuaded enough to where public opinion forces the government to use their power to affect the conditions of the prison. Forces of social change can come to influence abuses of government power if the opinion is strong enough to threaten its legitimacy, and thus comes the definition of *authority*. Authority "is unquestioning recognition by those who are asked to obey; neither coercion nor persuasion is needed. … To remain in authority requires respect for the person or the office. The greatest enemy of authority, therefore, is contempt, and the surest way to undermine it is laughter." (Arendt 1970, 45) In the example of the president, their power is the combined potential to affect change; authority is the willingness to allow it, and to recognize its legitimacy.

The last is violence. "*Violence*, finally, as I have said, is distinguished by its instrumental character. Phenomenologically, it is close to strength, since the implements of violence, like all other tools, are designed and used for the purpose of multiplying natural strength until, in the last stage of their development, they can substitute for it." (Arendt 1970, 46) Violence is unique in that it is a means—a tool with specific and unique functions that one can utilize and have complete command over. Power can affect the scale of the violence it can enact, but a violent of an individual has the potential to disrupt any centralized body of power. "Indeed one of the most obvious distinctions between power and violence is that power always stands in need of numbers, whereas violence up to a point can manage without them because it relies on implements." (Arendt 1970, 41) Terrorism, then, is the use of violence to disrupt sources of power, and in exchange, hope to gain some command of authority with those that the terrorists hold themselves in solidarity with, thereby gaining power.

The problem terrorists face is that once they have the attention of those whose attention they want, both those they're against and those they're fighting for, the continued use of violence cannot legitimize whatever power they were gaining. "Power springs up whenever people get together and act in concert, but it derives its legitimacy from the initial getting together rather than from any action that then may follow. Legitimacy, when challenged, bases itself on an appeal to the past, while justification relates to an end that lies in the future. Violence can be justifiable, but it never will be legitimate." (Arendt 1970, 52) One cannot form a society on the basis of violence without using violence to then control the society. This is the crippling flaw of ISIL in its drive: the continued acts of horrific violence committed both inside and outside of its

sphere of influence continually weaken the legitimacy required in the authority of the state that it intends to found.

But what of terrorists' use of violence against the United States? They surely cannot hope to be successful in the assassination of the president, nor can they believe that a successful assassination would end the US' intention to intervene in their territory. So instead, they enact displays of extraordinary violence against ordinary citizens, to topple their faith in the authority of their government's capacity to protect them. They see the US and its allies as monolithic forces that can only be effectively destroyed by corrupting its society. State terrorism is a force unique to individual terrorism, where only the individual needs to be destroyed to end the threat of terror. For state terrorism to end, the state has to cease to exist.

> "Bureaucracy or the rule of an intricate system of bureaus in which no men, neither one nor the best, neither the few nor the many, can be held responsible, and which could be properly called rule by Nobody. (If, in accord with traditional political thought, we identify tyranny as government that is not held to give account of itself, rule by Nobody is clearly the most tyrannical of all, since there is no one left who could even be asked to answer for what is being done. It is this state of affairs, making it impossible to localize responsibility and to identify the enemy, that is among the most potent causes of the current worldwide rebellious unrest, its chaotic nature, and its dangerous tendency to get out of control and to run amuck.)" (Arendt 1970, 38-9)

The only hope they have to free themselves from the threat of state terrorism is to shatter the faith of the many that authorize their concentration of power. The United States has shaped their politics and understanding of the conflict in such a way that makes the challenge of breaking their authority nearly impossible. And every continued act of violence towards, however justified the terrorists are in challenging that authority, results in the opposite effect by justifying further acts of state terrorism in retaliation and defense.

"Sometimes 'violence is the only way of ensuring a hearing for moderation.' To ask the impossible in order to obtain the possible is not always counterproductive." (Arendt 1970, 79) And indeed, there are times where riots, like those of the Arab Spring and Harlem's Civil Rights movement, where violence opened a door that allowed for reform to take place. But the important fact is that violence was not continued past this point—violence was not used to enforce every action of the reform, nor was it revisited when lapses in reform occurred. Violence, as analyzed by Arendt, and the conflict in the Middle East has proven repeatedly, does not breed power nor can it legitimize an end. In the case of the riots, those who committed the

acts of violence abdicated themselves to the authority of law, and their submission allowed their crimes to be removed from the principle that brought them to that point. The challenge to the authority was heard, and the collective force of change was allowed to take place on legitimate terms. In cases of terrorism, however, where one absolute must end for the sake of another, there is no legitimacy in violence, and hence no true authority can come out of it. It can only lead to further violence and an elaboration of the cycle that currently has no clear end.

III. On Just War Incompatibility

In 1977, Michael Walzer published *Just and Unjust Wars: A Moral Argument with Historical Illustrations* which quickly came to dominate contemporary discourse surrounding the culpability, ethics, legality, and morality of war and war-making. Walzer developed a contemporary, secular understanding of medieval Just War theory following his experience with the Vietnam War, choosing to place emphasis on moral imperative to protect noncombatants and prevent disaster. Walzer's theory has become a staple that all philosophical discourse concerned with war eventually comes to reference, acknowledge, utilize, or for the purpose of this essay, reject. Following the 9/11 attacks, there was a resurgence of debates concerned with the Just War implications of the US' response, and Walzer compiled a series of these debates as essays in 2004's *Arguing About War* in an attempt to reconcile his theory with current events. While Just War theory can be particularly illuminating when applied retroactively in a moral accounting of past conflicts where warfare resembles the pairing of two equal but opposed parties of the medieval heritage the theory descends from, but quickly breaks down, despite Walzer's best efforts, when applied to an analysis of the United States' War on Terror.

Walzer's conception of a Just War theory circles around three principles of conduct that can be used as criterion to judge whether or not a given action is justifiable as legitimate wartime praxis. These principles are first: discrimination, or the strict impermissibility of direct targeting of noncombatants within military action. This maintains that the direct and primary targets of any given military action must be legitimate combatants on the opposing side. However, this does not excuse noncombatants from indirect harm, which segues to the second principle: proportionality. Any harm brought upon noncombatants as a direct result of military action doesn't essentially disqualify a given war from justness, but that the foreseeable-but-unintended harm is permissible if and only if the intended outcome provides reasonably proportional gains to their objective of winning and ending the war. And finally the third principle is necessity. In

the event that one must commit to a military action that guarantees harm or death to noncombatant life, one must also opt for the strategic means that minimizes the harm to the fullest extent possible.

i. On Problems with Just War History and Point of View

The principles defining Just War form the basis from which peripheral concepts grow out of them, such as the "supreme emergency," which describes a scenario in which a given leader is faced with an overwhelming threat to their state, and in an attempt to stave off defeat or massacre, knowingly elects military action that would, in less dire circumstances, be a fundamentally unjust act of war. Or the concept of combat equality, in which all soldiers who satisfy the demands of discrimination, proportionality, and necessity are justified and permitted to wage war, regardless of what it is they fight for. Another point of interest in the theory is the described need for an understanding of the end terms of a given war or conflict. "On the standard view, a just war (precisely because it is not a crusade) should end with the restoration of the status quo ante. The paradigm case is a war of aggression, which ends justly when the aggressor has been defeated, his attack repulsed, the old boundaries restored. Perhaps this is not quite enough for a just conclusion: the victim state might deserve reparations from the aggressor state, so that the damage the aggressor's forces inflicted can be repaired—a more extensive understanding of restoration, but restoration still." (Walzer 2004, 18) These three are among the most significant descriptive concepts within Just War theory, and concern themselves primarily with the rights of those to die, and the circumstances for the end of wartime death that are already, intuitively, incompatible with the War on Terror.

Walzer himself, in the post-9/11 *Arguing About War*, found trouble reconciling the United States' history of conduct in the Middle East with his own theory:

> "American strategy in the Gulf war was the result of a compromise between what justice would
> have required and the unrestrained bombing of previous wars; taken overall, targeting was far
> more limited and selective than it had been, for example, in Korea or Vietnam. The reasons for
> the limits were complicated: in part, they reflected a commitment to the Iraqi people (which
> turned out not to be very strong), in the hope that the Iraqis would repudiate the war and
> overthrow the regime that began it; in part, they reflected the political necessities of the coalition
> that made the war possible. … There were, of course, both military and geopolitical arguments
> against continuing the war once the attack on Kuwait had been repulsed, but there was also an

argument from justice: that even if Iraq 'needed' a new government, that need could only be met by the Iraqi people themselves. A government imposed by foreign armies would never be accepted as the product of, or the future agent of, self-determination." (Walzer 2004, 10-1, 19)

Here, Walzer is saying two things that are in direct conflict with the other. Prior to the ellipses, Walzer attempts to justify the invasion of Kuwait by claiming that in regards to justice, bombing campaigns were conducted with more care than the notoriously undiscriminating carpet bombing of Korea and Vietnam, and that the intention was to support the noncombatant population in the restoration of a just state. And after the ellipses, he concedes the futility in establishing a government imposed upon a populace by a foreign power. On the one hand, the first half of the quote is a clear apologia. Walzer presents the conflict in Kuwait as being a straightforward invasion by the US to overthrow a dictator on behalf of Iraq's people, which disingenuously ignores US' imperial interest and history with Saddam Hussein's regime, and glides over the reality that the circumstances that preceded the Gulf War wouldn't have been put into motion if not for the US' prior intervention in the area. While the second half concedes that the aim of one government to impose governance on another is an unjust imposition on the agency and self-determination of another society. The purpose for bringing these two quotes together is to highlight Walzer's incredible resistance to call any of the US' wars summarily unjust.

To illustrate this further, he states in the introduction: "There are acts of aggression and acts of cruelty that we ought to resist, by force if necessary. I would have thought that our experience with Nazism ended this particular argument, but the argument goes one—hence the disagreements about humanitarian intervention that I address in a number of these essays. The use of military force to stop the killing in Rwanda would have been, in my view, a just war. … Aggressive wars, wars of conquest, wars to extend spheres of influence and establish satellite states, wars for economic aggrandizement—all these are unjust wars." (Walzer 2004, xi) The 1994 Rwandan genocide was precipitated by the German and Belgian imperial rule, which enforced pro-Tutsi policy. Invading a country facing genocide due to decolonization is just, but imperialism, however, is not. This is intuitive, but the US is not the colonial power to blame for Rwanda's crisis. This cannot be said about Iraq. How just could the Gulf War have been just if The US' imperial interest and "economic aggrandizement" is the basis for the conflict, or even *a* basis? In *Arguing About War*, Walzer never holds the US accountable to his own schema of justice, getting only so close as to imply certain *actions,* but not overall conflicts, approach being unjust. The selective nature of the criticism Walzer affords the US gives the sense that he is,

assumedly unintentionally, upholding ideals of American Exceptionalism – that the US is held to a distinct rule of law and ethics different from and not answerable to that afforded all other nations – and as this quote would suggest: "The work of the virtuous is never finished. It does not seem fair. But in the real world, not only of international politics, but also of ordinary morality, this is the ways things work (though virtue, of course, is never so uncomplicated)" (Walzer 2004, 21) Walzer truly believes that the US, and its history, is fundamentally just, if not still worth criticism.

Just War theory came from western bias; it was borne out of a need to rhetorically justify the crusades, and that legacy cannot be ignored as it is applied to contemporary issues. Just as Thomas Aquinas' work was utilized to retroactively exonerate and re-contextualize the crusades as anything but religious imperialism and genocide, one must resist the urge to fall into the same trapping when attempting to analyze contemporary events. If one is to only assess the War on Terror within Just War principles, they stand to find a way to classify the conflict as such, and ignore the post-colonial, economically charged historical and political context that it more accurately exists within. Following the 9/11 attacks, many co-opted Walzer's concept of "supreme emergency" to justify an invasion and create a supreme emergency in turn, and the problems of forcing classical understanding of war upon a post-colonial conflict begin to arise.

ii. On the Failings of Just War in Understanding the War on Terror

If Just War theory seeks to define how war can be conducted in a morally tolerable manner, the case of supreme emergency defines when in war all concerns of morality can be suspended for the good of the preservation of society. Walzer, almost gleefully, describes it as "a time for heroic decision, when nations and leaders are measured by the measures they take; but it is also a desperate time, when the measures taken are ones we would avoid if we possibly could." (Walzer 2004, 33) In the earlier book, *Just and Unjust Wars*, Walzer used his conception of supreme emergency to aid his moral assessment of the Second World War.

Given that Just War theory is, primarily, an application of moral theory first, and an assessment of justness second, there is a need for the subject being analyzed meet or approach moral acceptability in their actions. Due to an incredible number of reasons, fundamentally unjust actions occur during wartime, and Walzer hoped to be able to reconcile a seemingly inevitable transgression in morality with a largely just cause.

"The doctrine of supreme emergency is a way of maneuvering between two very different and characteristically opposed understandings of morality. The first reflects the absolutism of rights theory, according to which innocent human beings can never be intentionally attacked. Innocence is their shield, and though it is only a verbal shield, a paper shield, no defense at all against bombs and bullets, it is impenetrable to moral argument. The second understanding reflects the radical flexibility of utilitarianism, according to which innocence is only one value that must be weighed against other values in the pursuit of the greatest good of the greatest number. … Utilitarianism, which was supposed to be the most precise and hardheaded of moral arguments, turns out to be the most speculative and arbitrary. … Commonly, what we are calculating is our benefit (which we exaggerate) and their cost (which we minimize or disregard entirely). Is it plausible to expect them to agree to our calculations?" (Walzer 2004, 35)

The problem with supreme emergency understanding lies precisely in this struggle between the absolutism of rights and the demand for quantifiability in utilitarianism. Human rights demand that they never be infringed upon, and any infringement is, by definition, morally incorrect, while a utilitarian approach to a conflict of human rights could excuse a minor breach in response preventing a larger breach as a legitimate course of action. "'Supreme emergency' describes those rare moments when the negative value that we assign—that we can't help assigning—to the disaster that looms before us devalues morality itself and leaves us free to do whatever is militarily necessary to avoid the disaster, so long as what we do doesn't produce an even worse disaster." (Walzer 2004, 10) In order for one to declare a state of supreme emergency, a convincing argument must be made for a direct threat to the ongoingness of their society in ordering to justify the possibility of doing the same to another—only on the grounds that it be of lesser or equal scale.

Ongoingness is central to Just War theory. One must preserve the ongoingness of noncombatants, respect the ongoingness of enemy states and societies, defend the ongoingness of your own, and so on. More to this, it is central to human life and society in general. "This commitment to continuity across generations is a very powerful feature of human life, and it is embodied in the community. When our community is threatened, not just in its present territorial extension or governmental structure or prestige or honor, but in what we might think of as its ongoingness, then we face a loss that is greater than any we can imagine, except for the destruction of humanity itself. We face moral as well as physical extinction, the end of a way of life as well as of a set of particular lives, the disappearance of people like us. And it is then that we may be driven to break through the moral limits that people like us normally attend to and respect." (Walzer 2004, 43) Likewise, scale serves as the complimentary threshold that

determines just how much death composes a supreme emergency, and how much death is an acceptable response. Following the 9/11 attacks, supreme emergency rhetoric was invoked in order to justify the Iraq invasion, and the subsequent transition into Afghanistan and the spread into numerous surrounding states. In the fifteen years since, there has been an estimated two million dead in the conflict. Around 90,000 were terrorist militants, 55,000 were US soldiers, with the remaining composed entirely of noncombatants dead in response to the absolutely tragic, but differently scaled, 9/11 attacks. While *Arguing About War* was writing concurrently with the establishment of Guantanamo Bay and Abu Ghraib torture scandal, Walzer was witness to the breakdown of information regarding the grounds for the invasion of Iraq and the legacy of the Gulf War, and it does not seem possible to justify either the 9/11 attacks as a legitimate supreme emergency nor the scale of response being warranted to justified to any degree.

This is exactly where it is worth stressing the problems that arise when fundamentally misunderstanding one type of issue with another. The Just War model demands combat between two recognized militaries, with an understanding of end terms, but the US is staging an all-out military campaign within several countries, against an enemy defined in such a way as to include millions of noncombatants, and with no concept of end. In the time since, Iraq has had its entire infrastructure including government, hospitals, schools, manufacturing, museums, etc. uniformly reduced to rubble. On this topic of ongoingness, contemporary philosopher Igor Primoratz, having written extensively on terror, elaborates:

> "Consider the American reaction to the September 11 attacks. Thought serious and frightening, these come nowhere near satisfying Walzer's criterion, and yet many people would find the expression 'supreme emergency' quite apt to describe the post-September 11 situation. They feel that their way of life is threatened, that their civilization is threatened, that any means of combating future acts of terrorism are justified. Likewise, supporters of Bin Laden and the September 11 attackers probably saw both the United States and Western culture generally as 'an ultimate threat to everything decent' in their lives. … One can put an end to the collective existence of a people, it's 'ongoingness' as that particular people – the 'ongoingness' of its way of life, its traditions and cultural and political institutions – without killing or expelling every single member of the people." (Primoratz 2013, 103, 109)

The argument of supreme emergency is much, much more easily argued on the side of the Iraqi populace, given the circumstances, as there's no possible chance for any utilitarian analysis to assign a single US soldier the value of 40 Iraqi civilians as just exchange in the conflict that has occurred.

The format begins to break down, the more one attempts to impose a Just War understanding upon the War on Terror in a decontextualized vacuum. More satisfying analysis comes from looking at the conflict not as a single, self-contained circumstance, but part of a long string of events. If one takes history and politics into account for the formation of the War on Terror, it becomes clear that the US is engaged not in a solitary war with a clear beginning and end, but an over half-century long struggle of external influence and control over resource rich territory. Understanding this essential to diagnosing circumstances and reacting to conflict, and doing so could have led to a more informed and nuanced approach to the threat of terrorism as a deliberately separate conflict than addressing the state of Iraq under Saddam.

II
<u>On State Terrorism</u>

As political landscapes evolved following the Second World War, the means for and the justification of acts of violence carried out on behalf of the state evolved as well. In a world which largely recognizes and defends human rights and the rights of independent states to self-determination without intervention, the capacity for open warfare between states for the purpose of empirical expansion faded into irrelevance. The need to physically annex, occupy, or colonize a state to gain access to whatever material or intellectual resources it contains dissipated when webs of influence grew over the economies and governance of nations decolonized. This gave birth to a type of conflict between superpowers and states decolonized only on in the physical sense, where the objectives (military footholds in geopolitically significant areas, access to essential or bountiful resources or labor economies, etc.) remained the same, but the means are dramatically different.

These conflicts are often framed by their supporters as the exportation of democratic values (over which the West claims a monopoly) or political stability to a state or region where it is deemed there is a lack of one or both, or as destructive acts of political usurpation and destabilization, or outright campaigns of terror by its critics. This last claim, that a state is capable of carrying out a terror campaign, begs for further definition as the basic definition of what composes a terrorist is a marginally contested concept, and requires the unpacking that it is afforded in order for the exploration of state models of terrorism to be satisfyingly explored.

Acts of terror on behalf of a given state cannot be performed in a vacuum, there are internal, as well as international laws and conventions which exist for the sole purpose of defining and defending acts of legal warfare and the rights of those who might be transgressed upon by illegal military campaigns. It is necessary, then, to examine exactly *how* a state can develop and exist within a code of law which affords the capacity to commit acts of terror, how these acts are navigated internationally, as well the extensive implications these laws carry upon those who stand to find themselves on the receiving end of state violence.

i. On Terrorism as it Concerns the State

It is important, first, to expand upon what constitutes an act of terror as separate from defining who, or what, a terrorist is. As Igor Primoratz argues, an act of terror, as such "can be employed by states or by non-state agents and may promote national liberation or oppression, revolutionary or conservative causes. One can be a terrorist *and* a freedom fighter; terrorism is not the monopoly of enemies of freedom. One can hold high government or military office *and* design or implement a terrorist campaign; terrorism is not the preserve of insurgents." (Primoratz 2013, 21) Where one stands politically, legally, or morally does not influence the capacity of one to be able to commit an act of terror, nor does one have to commit themselves to a life of terrorism to become a terrorist. In order to commit an act of terror, one must first inflict injury upon another by directly, or indirectly with reasonable prior knowledge or intent, by means of carrying out actions that leads to their harm. This is a brief definition of violence, but terrorism requires more; in terrorism, the violence is not an end, nor is it the death of those who are harmed, but is the means to an end of direct influence over another (or a state) by way of violence. "Terrorism is intimidation with a purpose: the terror is meant to make others do things they would otherwise not do. Terrorism is coercive intimidation." (Primoratz 2013, 10)

In regarding influence as the primary objective of a terrorist act, terrorism enters the realm of politics, and gains a unique specificity that defines it separate from other acts of violence. Terrorism is, then, a "fundamentally a political tactic, involving the deliberate frightening of people for political advantage. That is not the worst thing that terrorists commit. But it is the *distinctive* wrong that terrorists commit, making them terrorists and not mere murderers." (Primoratz 2013, 11) Given the access to resources and global initiatives far out of the reach of an individual committing acts of insurgent terrorism, state terrorism has the capacity to conduct violence both in much greater scale and in more varied manners. If one accepts violence as being along the lines as previously defined, a state has the capacity to enact terrorism by way of trade sanctions or embargoes which directly result in attrition or the livelihood of an economy, the installation of military bases meant to maintain or defend a foreign rule of law, the direct destruction of an economy by way of terror bombing (this being the destruction of manifesting, resource development sites, government buildings, hospitals and schools, or other aspects of infrastructure which contributes to quality or ongoinness of life), as well as the direct targeting of individuals or accepted harm done to civilians or noncombatants. If meant to intimidate or persuade, on whatever scale, an individual or state or non-national group to make a

decision they wouldn't otherwise be compelled to make, under threat or grief of violence, an act of terror has taken place.

This is no more than the construction of a framework of understanding and definition from which the phenomenon of state terrorism is to be discussed. While this definition clearly allows for the investigation of a terror state, that is, a state whose governance inflicts terror upon its own citizens as a means of control or political action, (as in Hitler's Germany or Pol Pot's Cambodia) it is not the intention here to confront them, despite their features of terror. It is worth restating that analysis is to be focused squarely on the democratic state utilizing violence as terror upon another state or group, with specific reference to the United States and allies as they have been in conflict with various nations and groups within the Middle East. It is within this conflict that there is an extensive and varied history of terror and politics that is without historical precedent.

ii. On State Terrorism

When addressing state terrorism at a glance, one might find themselves confronted with biases in the state's favor. Such as the impulse to deny the possibility of a state being able to commit acts of terror as such (relegating such acts as either normal warfare or necessary measures in the war effort). It's a reflex to claim that "what the state does has a certain kind of legitimacy, while those challenging it tend to be perceived as forces of disorder and destruction, engaged in clearly unjustifiable pursuits. (Primoratz 2013, 31) This comes in many forms, be it uncritical and therefore shallow patriotism and unity with the state's efforts, or misplaced faith in the adherence to the laws that the state has sworn to uphold and protect both domestically and internationally. This later point, the state's willingness to acknowledge lawful or sanctioned acts of war will be discussed shortly.

Another significant bias is to seek to legitimize the acts within the concept of an "Us vs. Them" schema, which discounts or diminishes the right of the targets of state terror to be protected under internal law. This goes so far as to develop into a certain double standard, wherein all allies of the state are free to conduct whatever war campaigns they deem necessary in other to achieve whatever end they seek. Not only does this strip the state of a need to justify its actions against a given insurgency, but in the scenario where a foreign or non-national militant or insurgent group conducts terrorist campaigns against the state's enemies, the rhetoric shifts and paints those insurgents as guerrillas or freedom fighters, semantically shifting the content of their

actions out of the realm of outright terrorism, and into a morally justified territory. A territory where their given ends, of supposed freedom or stability, the promise of new rights or just politics, or merely the satisfaction of the state's objective overrules whatever problems of dirty hands, guilt, or lawfulness arise in the means of enacting terrorism.

But neither of these biases confront the fact that the laws and conventions that protect others against acts of terrorism do exist, and they apply unilaterally and without condition. "Virtually all actions that constitute terrorism are prohibited by one or another of the various international human rights declarations or conventions and agreements that make up the laws and customs of war. The latter provide for immunity of civilians in armed conflict and thus prohibit terrorism by belligerent parties. Most, if not all, remaining types of terrorism – terrorism in wartime perpetuated by groups not recognized as belligerent parties, and terrorism in time of peace perpetuated by anyone at all – are covered by declarations of human rights." (Primoratz 2013, 38) There exists a balance of power, a political power dynamic that favors the more powerful, the more influential in war which serves a dual standard that not only allows for the rule of law to bend in their favor, allowing for unlawful acts to be selectively unjudged or unpunished in the international stage, but also the swiftness that those laws are applied to those who threaten or attack the powerful state in question.

This poses a frightening double standard in terms of scale; not only is the scale of potential terror much, much wider when backed by the resources of a political superpower with strong allies, but the reaction to the victims of insurgent terror within that strong state is on a scale much larger than afforded to the victims of the insurgent state. This poses a significant moral problem wherein the "Us vs. Them" schema of bias where victims numbering in the thousands in a strong state garners internal outpourings of aid, military declarations of mobilization within allies, and full benefits of international law when confronting those responsible for the attack(s). While the nationals of insurgent enemy states are afforded either limited, or no protection internationally in the circumstance of their loss, often in the hundreds of thousands and millions, from campaigns of state terror. "But it is not only its scale that makes state terrorism morally worse than terrorism employed by non-state agents. One way or another, state terrorism is bound to be compounded by secrecy, deception, and hypocrisy. When involved in terrorism, whether perpetrated by its own agencies or by proxy, a state will be acting clandestinely, disclaiming any involvement and declaring its adherence to values and principles belied by its actions." (Primoratz 2013, 37-8) This moral problem is further compounded when evidence of terror having been waged secretively arises to light, and problematizes the

fundamental principles of a state: its promise to uphold and protect the law without discrimination.

When a state implicates itself in acts or campaigns of terrorism, either directly or indirectly, it allows itself to exist in direct breach of its duty not only to its own rule of law, but also its internal commitments to human rights and warfare conventions. This brings the state into a moral circumstance that cannot be reached the insurgents or non-state agents it is in conflict with. In the case of insurgencies using terrorist tactics against a state, they are acting outside of not only a state of law (which may or may not have a functioning capacity in their given territory) but without any burdens of international commitment to wage war in a manner deemed lawful. This fact, while it doesn't lessen the moral repugnance of their crimes by engaging in terrorism, does not carry with it the *additional* charge of defying international law.

> "Non-state terrorism is often said to be justified, or at least have its wrongness mitigated, by the argument or no alternative. In a case where, for instance, a people is subjected to foreign rule with the usual attendant evils of oppression, humiliation, and exploitation, when that rule is bitterly unyielding, and when it deploys overwhelming power, a liberation movement may claim that the only effective method of struggle at its disposal is terrorism. … In such a situation, the 'no alternative' argument might provide moral justification for terrorism or, at least, might mitigate somewhat our moral condemnation of its use. On the other hand, it seems extremely unlikely that a state should find itself in such circumstances where it has no alternative use of terrorism." (Primoratz 2013, 38-9)

This last fact, that it is "extremely unlikely that a state should find itself in such circumstances where it has no alternative use of terrorism" distinctly places the state's responsibility not to engage in or endorse acts of terrorism above that of an insurgent. There is no satisfyingly convincing argument that can be made for a state having no other possible option afforded to it in a conflict that it must therefore resort of terror as a permissible option. The unnecessary need to resort to such actions, as well as the need for the state to recognize and abide by its own laws and the accords it has agreed to, elevates the moral charges against the state that engages in terrorism above that of the insurgent engaging in terrorism. The possibility for a state to justify such a breach of fundamental human rights then approaches impossibility.

In light of the enormity of those crimes then, why would a state feel compelled to resort to terror? A possibility lies in the desire for a state to defend the lives of its citizens, and its right to violently do so lawfully. "Not only does [insurgent terrorism] contest the state's monopoly of violence – any violent opposition activity does that – but it also demonstrates that the state is no

longer capable of performing efficiently enough its most important task, that of providing basic security to its citizens. … Faced with such a challenge to its very *raison d'etre* and the difficulties of fighting terrorism while remaining within the bounds of morality and the law, the state may well be tempted to resort to terrorism itself." (Primoratz 2013, 42) The state, facing threats to its security and its promise to defend the right to life and way of life of its citizens may choose then to gamble its ethicality and adherence to international law with direct action to protect itself from harm. When confronted with a conceptual risk (that of ethics and morals) and the physical risk of loss of life, the state is tempted to prioritize a dramatic and utilitarian approach to defense. Rather than fail to uphold its promise to its citizens after the terrorist acts of 9/11, the US government under George W. Bush decided instead to publicly problematize it by attempting to turn the existing clandestine and misguided campaign against insurgents in the Middle East into a public campaign, and constructing for itself the "War on Terror."

iii. On the "War on Terror"

Prior to the terrorist attacks on September 11th, 2001, insurgent terrorists, namely those in the Middle East (Iran, Iraq, Afghanistan, Pakistan, etc.) were referred to in criminal terms, are existed within the realm of law, both interior and international. When they took hostages, or orchestrated terrorist actions, they were confronted with the intention to bring criminals to justice under the laws that they had broken, according to the nature of their crimes. Those actions were not considered acts of war, given that Iran denied involvement with hostage takers, Pakistan's government kept themselves politically distant from the Taliban, and so on, so there was an essence of statelessness to the actions of those combatants. With this understanding, the rules of just war engagement were not called into play, and no large-scale military actions were declared against a specific enemy. But after the 9/11 attacks, "the focus shifted from the terrorists themselves to the states that were sheltering them and the threats those states posed to the rest of the world: that of developing and then using weapons of mass destruction and unleashing them on other countries." (Primoratz 2013, 42) There came a perceived need to change the strategy, to redefine how exactly the state might be able to more fruitfully engage with these combatants in order to maintain national security.

This gave rise to a problem. Neither the rule of criminal law, nor warfare conventions allowed for a satisfactory model for the formal engagement with insurgency. "Rules regulating police work do not permit incidental killing or injuring of bystanders in the course of pursuing

(suspected) criminals. Both consequentialist ethics of war and the mainstream version of just war theory, as well as the laws of war, accord certain minimum legitimacy to soldiers fighting on both sides of a war, whereas criminals compound their crimes when they resist police officers who are trying to apprehend them." (Primoratz 2013, 44) If a state were to engage with the insurgents under the basis of criminal law, they would be beholden to disallow any collateral damage, that is, the harm inflicted upon civilians as a perceived inevitability in the process of waging a formal war against a combatant. However, Just War theory demands that there be an essential legitimacy to the engagement of a combatant so as to frame the war within specific terms. If was were to be declared against Iraq, for example, engaging with Pakistani of Iranian terrorists would not be legal or just, and would be a breach of war protocol. How then must a terrorist be engaged? The name alone presents a conflict. As Tzvetan Todorov, philosopher and author of *Torture and War on Terror*, reminds us: "The term terrorist also suffers from a lack of specificity. It simply informs us that a person or an organization does not act in the name of a state, and that it indiscriminately attacks civilians, soldiers, buildings, and means of transport. But it tells us nothing of the global objective pursued by these militants or of their particular motivations." (Todorov 2009, 3) Instead of adhering to any sort of precedent, and indeed there isn't one for an unprecedented form of combatant in the terrorist, in a state of emergency the US government found a medium between the concept of an unlawful combatant and formal war, and declared its engagement in the "War on Terror."

The problems with such a war arise simply from the name—there is no nation of terror to send its military to, nor any one group or individual that can lay claim to being *the* terrorist or *the* terrorist organization that can be engaged, instead it is a war on "terror", terror being a metaphor. It is an indistinct, vaguely defined term that describes "not a human opponent that is being fought but, rather, a scourge that may never be completely removed. This loaded metaphor risks inducing other unwanted consequences." (Todorov 2009, 2) There are no concrete grounds for victory as much as there is a concrete enemy for which the entire effort can be directed towards, instead it opens itself up into a perpetual state of conflict, wherein new terrorists are being militarized and joining, or inventing, insurgencies across several countries, with no unified objective. One could speculate that the end terms to war would be achieved once every single terrorist were to be killed or apprehended; can such a model for warfare be legitimized?

> "By selectively combining elements of the war model and elements of the law model, Washington is able to maximize its own ability to mobilize lethal force against terrorists while eliminating most

traditional rights of a military adversary, as well as the rights of innocent bystanders caught in the crossfire. The legal status of al Qaeda suspects imprisoned at the Guantanamo Bay Naval Base in Cuba is emblematic of this hybrid war-law approach to the threat of terrorism. In line with the war model, they lack the usual rights of criminal suspects – the presumption of innocence, the right to a hearing to determine guilt, the opportunity to prove that the authorities have grabbed the wrong man. But, in line with the law model, they are considered *unlawful* combatants. Because they are not uniformed forces, they lack the rights of prisoners of war and are liable to criminal punishment. Neither criminal suspects nor POWs, neither fish nor fowl, they inhabit a limbo of rightlessness." (Primoratz, quot. Luban 2013, 45)

It is legitimate insofar as the US has declared war on an enemy that exists beyond rights, beyond state and international recognition; it has declared war on a concept.

What is not clearly defined in this mode of warfare is the issue of the rights of civilians and/or non-combatants. In just wars, it is accepted that there is a high likelihood for there to be harm to those who are innocent, either due to unintended or unforeseen circumstances where intelligence fails to notify of the presence of non-combatants at a target, or in the case of a confirmed legitimate military target. In that circumstance, it must be wholly justified that the importance of the objective of the military campaign attacking it, and the risk in doing so, is directly proportionate to the potential loss of innocent life. This is understandable within the manner in which war is conducted, and the critical fact is the conscious effort to minimize all possible loss of innocent life while enacting the war effort. "When carrying out an act of war that will also have the unintended but foreseen consequence of harming the innocent, we must seek to reduce that harm to a minimum, and must accept risk to life and limb of our own soldiers in order to do so. The right of the innocent not to be harmed is the centerpiece of the *jus in bello* part of just war theory." (Primoratz 2013, 46) If the War on Terror is being waged to protect the right to life of the US citizens, it is being waged with the understanding that no such right to life extends to the states wherein insurgents are located, a modus operandi entirely unique to this model of warfare in the way that it applies to the entire war itself. It is not, however, without precedent in previous conflicts, albeit with the deviation that the willful end to innocent life was tolerated for brief periods of time, only.

In times of conflict, it is accepted that government and military leaders will, on occasion, find themselves in a situation where a decision will have to, or appear to, given all available information at the time, be made that can compromise the moral or ethical rules of that society. They will have to choose whether to break a rule, or set of rules, in order to alleviate or mitigate

consequences against themselves or others that would, by proportion, be a more severe or tragic outcome than a moral or ethical breach. Making the decision in the positive, that is, to decide to accept the consequences of a moral/ethical breach, "will be wrong, in that it will be a breach of a stringent moral rule, and it will also be right, in that it will stave off the threat to the community. It will leave him with dirty hands and a sense of guilt, yet he ought to do it; if he does not, he will fail to live up to the duties of his office." (Primoratz 2013, 96) This is a basic overview of what Walzer describes, in 1977's *Just and Unjust Wars*, as a problem of 'dirty hands', the guilt or burden of having to choose between two negative scenarios that one wouldn't consider if the conflict wasn't thrust upon them. This sort of problem is easily understood in the context of World War II, wherein Britain's Churchill ordered the terror bombing of German cities in order to dismantle their war manufacturing effort. The justification for such a command is due to the existence of a 'supreme emergency', a period of time where the continued existence of a state is in direct and imminent threat, and there is near certainty that a failure to counteract the threat will lead to unthinkable consequences towards the state.

These decisions exist in a state of hypothesis until the time in which they are made immediately present. In the example of the British WWII terror bombing, the plausible argument could be made that there was no better choice available to them than to do everything they could to disrupt the Nazi war effort—the best possible outcome of the declaration of a state of supreme emergency is the post hoc forgiveness of having made the decision which results in grave consequences for another. This is not true every time a government has declared a state of emergency, and the problem, much like with declaring a War on Terror, lies in the impossibility to define specifically what constitutes an emergency large enough to warrant absolute power of decision-making, above the law, to the government.

Without a capacity for definition, the suspension of the rule of law in favor of expedient military response to a conflict leaves massive space for the ability for that power to be abused and unjustifiable actions, in every sense, to be carried out. Within the state of emergency, it becomes possible for a state to commit an act of moral disaster, that being the imminent threat to an entire nation of people or the ongoing existence of a state, or the commencement of a war that can result in such a moral disaster having come to fruition, becomes possible. However, under threat of a state being faced with an act of moral disaster upon them, it becomes reasonable that the state may be then within a supreme emergency and act accordingly. In the case of 9/11, one would have an extremely difficult time to convincingly argue that the US was facing an act of moral disaster and the direct threat of their continuity as a state. In the aftermath

of over a decade of military campaigns in various regions of the Middle East, however, one would find an easier time to make the case that moral disaster had occurred there. To restate the latter half of an earlier quote: "one can put an end to the collective existence of a people, it's 'ongoingness' as that particular people – the 'ongoingness' of its way of life, its traditions and cultural and political institutions – without killing or expelling every single member of the people." (Primoratz 2013, 109) Given the sheer numbers of Iraqi (242,000 total, with 160,000-175,000 being non-combatants) and Afghani (91,000 total, with 30,000 being non-combatants) dead, the millions displaced, and massive damage and destruction to civil and government infrastructure, the threat to the continuity of those states is dire. This is not a means to argue that the actions and terrorist acts committed in defense of their state and way of life is justifiable, but rather that the moral crimes against humanity committed against them, given the ethical and legal commitments of the US, outweigh the crimes they themselves have committed.

iv. On the Sovereign, State of Exception, and the *Homo Sacer*

When the US government declared a state of emergency following the 9/11 attacks, and proceeded to commence the War on Terror, it was doing two significant things, conceptually. First, in the state of emergency, the legal status of the military-focused executive branch of the presidency elevated itself above the need to adhere to the laws and conventions dictating the conduct of war and the protection of human rights. In effect, it entered a state of sovereignty, being both an apparatus of a liberal government, and above the need to recognize its laws. And second, it classified its enemy as an enemy existing outside the laws protecting the rights of enemy combatants in a just war, and without any legal reproach or right to life afforded to citizens of recognized states. This state of human existence, one without protection and right to life, is conceptualized by philosopher Giorgio Agamben as the *homo sacer*.

The concept of a sovereign, a government body that has absolute will to act as it wishes without a capacity for its power to be limited or actions held accountable to law begins with Hobbes in the seventeenth century. In *Leviathan*, Hobbes develops a model of a state wherein all citizens surrender themselves over to the absolute rule of the sovereign, as a cure or mediation to end the state of nature, thereby eliminating the need for war. As it relates to liberal society, the concept of the sovereign was brought into modernity by Carl Schmitt, who concerned himself with the need to inject the possibility of swift decisiveness in a time of crisis, the need for confident governance to be able to act unencumbered by parliamentary (or congressional)

proceedings in a time of emergency. The sovereign "decides whether there is an extreme emergency as well as what must be done to eliminate it. Although he stands outside the normally valid legal system, he nevertheless belongs to it, for it is he who must decide whether the constitution needs to be suspended in its entirety." (Schmitt 1922, 7) Once a legitimate claim for emergency presents itself, the rule of law is suspended to allow for the emergency to be overcome by means outside of the system of government as it in a time of peace and calm.

> "The existence of the state is undoubted proof of its superiority over the validity of the legal norm. The decision frees itself from all normative ties and becomes in the true sense absolute. The state suspends the law in the exception on the basis of its right of self-preservation, as one would say. The two elements of the concept *legal order* are then dissolved into independent notions and thereby testify to their conceptual independence. Unlike the normal situation, when the autonomous moment of the decision recedes to a minimum, the norm is destroyed in the exception. The exception remains, nevertheless, accessible to jurisprudence because both elements, the norm as well as the decision, remain within the framework of the juristic." (Schmitt 1922, 12-3)

This is how Schmitt conceptualized the sovereign; Schmitt's sovereign is a fundamental aspect of the constitution of a liberal state. It is explicitly written into law the capacity for a legislator to exist outside it, in a state of exception, and has an absolute monopoly over the decision process and the finality of the nature of the decision. It has the capacity to enact law, and indeed create law, that is not reliant upon any preexisting law or legislation. Not only does the sovereign command its decisions and the law as such, but also the declaration of the end of the state of emergency that calls for the relinquishing of the sovereign's power.

The sovereign exists within the concept of the exception. Be it the declaration of a state of emergency, or national crisis, the exception is a period of time wherein it is determined that all existing means of law and government fail to respond decisively and satisfyingly to the nature of the exception. "The exception is a kind of exclusion. What is excluded from the general rule is an individual case. But the most proper characteristic of the exception is that what is excluded is not, on account of being excluded, absolutely without relation to the rule. On the contrary, what is excluded in the exception maintains itself in relation to the rule in the form of the rule's suspension. *The rule applies to the exception in no longer applying, in withdrawing from it.*" (Agamben 1998, 17-8) When a threat makes itself unique to existing law, the sovereign then decides to eschew law all together, for absolute control. Within the exception, the sovereign can respond to everything that exists outside the law, and has the capacity to move subjects of the law, such as a person or citizen, to a space outside of the law, beyond protection and accountability.

While this entity, the sovereign and the distinction of the exception, was explicitly written into law by Schmitt in the form of Article 42 of the Weimar Constitution, and gave rise to Hitler's suspension the rule of law for an indefinite state of exception, no such explicit law exists in the United States Constitution. Intuitively, one assumes it must be impossible for this sort of extralegal power to exist in the US, but it is not so. Rather than constituting its power by means of the establishment of a formal sovereign, sovereign status was afforded the executive power by deliberately superseding the rule of law.

After declaring the War on Terror, the military was deployed without the attempt to declare a formal, legal war on congressional terms due the inability for the conflict to fall in line with existing war doctrine. This decision alone does not grant the power necessary for the sovereign to act unencumbered outside the rule of law, but the collective implicit agreement to not hold the war accountable, on side of the legislative and judicial branches of the US government, to existing law grants this power. No legal war was ever declared, and as the conflict developed, law was created in its wake, granting legal status to actions retroactively, and legitimizing their application in the future. "The exception reveals most clearly the essence of the state's authority. The decision parts here from the legal norm, and (to formulate it paradoxically) authority proves that to produce law it need not be based on law." (Schmitt, 1922) It was an embrace of the state of exception, the War on Terror as both an extralegal conflict, being that no aspect of its structure is defined or constrained by law, and a law-producing force in the need to legitimize and establish precedent out of the decisions made within the state of exception. The sovereign power, in this example, is the executive powers of the US government, supported with little challenge to its authority by all other aspects of government.

Just as significant as the capacity to create law where there isn't any existing, the sovereign power has the capacity to strip a legal subject of its legally recognized status. "*The sovereign exception (as zone of indistinction between nature and right) is the presupposition of the juridical reference in the form of its suspension.* Inscribed as a presupposed exception in every rule that orders or forbids something (for example, in the rule that forbids homicide) is pure and unsanctionable figure of offense that, in the normal case, brings about the rule's own transgression (in the same example, the killing of a man not as natural violence but as sovereign violence in the state of exception)." (Agamben 1998, 21) When this is applied to a person, they are then open to the absolute power of the sovereign; they become the *homo sacer*, a human being whose life can be taken at will and whose murder is unpunishable, as well as their life having no legal connection to a state or the rights of the dead. They exist outside any human rights accord, or the legal right to defense. "*The*

sovereign sphere is the sphere in which it is permitted to kill without committing homicide and without celebrating a sacrifice, and sacred life—that is, life that may be killed but not sacrificed—is the life that has been captured in this sphere." (Agamben 1998, 83) Those who exist under this exceptional rule, the 'terrorists', or insurgents, or all those, combatants and non-combatants alike that physically coexist within the same states that insurgents inhabit, are not necessarily all condemned to death, merely to the will of the sovereign.

Three explicit examples have arisen from the conflict that fit into the concept of sovereign exception. The first is indefinite imprisonment. The establishment of extralegal prisons, such as Abu-Ghraib and Guantanamo Bay, allow for the indefinite detention of all those who fall under the classification of an emery in the War on Terror. Within those spaces, no detainee is granted any defense under the rule of law, no trial to determine guilt or amicable sentence, and can be tortured or killed arbitrarily with no recourse for that action. Second, is the killing, and subsequent disposal, of Osama Bin Laden. The US granted itself absolute authority to entire Pakistani territory without conference with its government, the absolute right to kill Osama Bin Laden without intention to bring him to face trial for his crimes on an international scale, and to ultimately dispose of his body, unceremoniously, into the ocean. The intention here was absolute erasure. He was not recognized as bearing the rights of a human, and was eliminated as such. In his disposal, there was no capacity for his supporters or family to mourn his death, they, along with his supporters, were denied the right to mourn their dead, or martyr him in ceremony. The last example is torture. The US has consistently made use of a range of torture practices that have been firmly disallowed by nearly all of its allies, but has refused to integrate these standards into its own law. Concerning this fact specifically, the US has chosen to both redefine and semantically cloud and obscure the discussion of torture, to meet its ends in the exception and eliminate the will, not just the body, of its enemy.

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v. On Torture

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In the aftermath of the Second World War, the participating countries of the United Nations met to outline international law, human rights, and the standards of military conduct as the 1949 Geneva Conventions. Among the topics covered, specific attention was devoted to torture, in defining and codifying its forms and features, as well as its strict prohibition, which came to be confirmed as the United Nations Convention Against Torture in 1984. The conventions were concerned with "torture and 'other acts of cruel, inhuman or degrading

treatment or punishment'. These documents defined torture as acts 'inflicting severe pain or suffering', be it physical or mental." (Todorov 2009, 22) Despite the US' involvement in both conferences, it has since refused to commit itself to signing over its commitment to those conventions as law, instead proclaiming its own need for torture for its own ends.

In response to extended public outcry within the US as the continued application of torture by US agents became a heated subject of public debate, as well as the potential for criminal proceedings being brought against the interrogators, on August 1st, 2002 (almost a year into the War on Terror, and the extralegal invasion of Iraq) the US Department of Justice's Office of Legal Counsel issued what came to be referred to as the 'Torture Memo'. "The memorandum cites legal reasons according to which the acts committed are deemed lawful and do not fall into the category of prohibited acts of torture as defined by international conventions and the US Code. The strategy of the document is to admit to the acts of violence endured by the prisoners, but also to contest their qualification as 'torture' in what amounts to a redefinition of a term that did not seem problematical until then. According to the Memo, 'certain acts may be cruel, inhuman or degrading, but still not produce pain and suffering of the requisite intensity' to be qualified as torture." (Todorov 2009, 25-6) This is a significant example of how exactly sovereign decisions become legitimized, or gain the appearance of legitimization, by the support of the judiciary branches of the US government, and establishes legal precedent.

When the military effort in the conflict in the Middle East exists primarily outside of the rule of law and just war, in opposition to an enemy denied the protection of human rights, the capacity to subject them to violence outside of the norm becomes possible. The US, in its attempts to mitigate the illegality of these actions, and the moral problems associated with them, elected to conduct these interrogations not on US territory, but on land specifically not protected or recognized by international conventions. In the locations, such the Abu Ghraib prison in Iraq, and the Guantanamo Bay facility in Cuba, the US can freely infringe upon human rights. This falls directly in line with the concept of the War on Terror. "Because we are dealing with a 'war', the laws applicable in times of peace do not apply. Yet, since the war is not directed against another country, the international conventions do not apply either. And since this 'war' has no end in sight, the government that declares war sets itself above international norms for an indefinite period of time. The 'illegal enemy combatants' category allowed the US government to place apprehended individuals outside the reach of laws and norms, and hence to practice torture." (Todorov 2009, 33) With the invention of a new hypothetical mode of warfare, so too it was attempted to create a new, hypothetical definition of torture. There is nothing so uniquely

different with the conflict in the Middle East as to necessitate the state terror on non-combatants, and so too there is nothing so unique about the threat against the US as to necessitate a different definition of torture to make it just. "It is not because we saw that the systematic destruction of a person will not be *called* torture that it ceases to *be* torture. Common usage and international conventions would designate such practices as belonging to the category of torture; thus reality is not altered in any way by this new designation." (Todorov 2009, 39-40) This exists only to provide the appearance of legitimacy to the actions of the sovereign within a declared time of exception, it not seeking to expand upon or refine domestic or international law. It exists only to support and defend the sovereign's effort in the exception, the War on Terror.

The principle issues that arise from doing so, however, aren't the treats of indictment or human rights trials, though those definitely motivate the attempts to legitimize breaches of rights and law. But rather, the severe damage done to the US' moral standing in the international stage, and its motivating force for those threatened by the US' actions to unify in opposition to it. In Abu Ghraib, pictures surfaced of US soldiers and agents appearing to enjoy the systematic humiliation and torture of its detainees, and reports of the maltreatment of non-combatants, such as Dilawar—a Pakistani taxi cab driver with no connection to any insurgency or terrorist cell, being tortured to death in Guantanamo Bay—come to light and ignite international outrage. "The meager benefits obtained through forceful interrogations at Abu-Ghraib were reduced to nothing by the collapse of the US' moral standing. What was supposed to contribute to a final victory made it more remote still; because, to win that war, the government had to win over the sympathy of entire Muslim populations in Muslim countries, and this is hard to do when you have earned the reputation of a torturer." (Todorov 2009, 53) It becomes, in effect, a self-perpetuating cycle; as the US commits atrocities and willful breaches of human rights in the effort to gain intelligence concerning attacks against it through torture, it inspires more to join the effort against it. Those inspired develop plans to attack the US, which in turn, motivates the US to detain, torture, and kill even more, ad nauseam.

The US government cannot be ignorant of this fact, which then begs the question why. What could possibly motivate this tactic that can only serve to perpetuate acts of cruelty? Without digging into the geopolitics of the area, and the imperialist interest the US has in occupying and controlling that territory (which can be construed as an end, and therefore a justification, not a motivation of affect) but instead seeking to understand the content of the means, the semantic content of applying torture is one of fighting fire with fire.

"It is expressed in clear terms in the stated goal of 'terrorizing terrorists'. Since the latter have caused so much dreadful harm—killing innocent people, spreading fear everywhere and threatening our most cherished values—we must exact revenge and make them suffer as much as we have, if not more. We must show them that out democratic values have not weakened our ability to be tough. It is a matter of symbolically repairing the past by inflicting comparable harm upon them (*lex talionis*), thus asserting they will know what to expect in the future. When we terrorize terrorists, we indicate our willingness to become their image in the mirror and to be even more determined as terrorists than they have been." (Todorov 2009, 84-7)

The sovereign's aim in the exception is one of absolute erasure. There is only absolute finality in confronting an enemy that is beyond bearing rights or the protection of the rule of law. Terrorism, as a tactic, is unique in its aim to motivate an individual, or a state, into a decision that it would otherwise find unthinkable. Merely defeating an opposing army on a battlefield would not eliminate that army's will to live, to continue and fight in their own self-interest and the betterment and progress of their state of their people. The aim of US' terror attacks against the Middle East is to eliminate this hope, this will to live, to establish a political tabula rasa from which the US can shape a presence in its own image. And in order to do so, it must first, by any means necessary, eliminate all ideology and motivation contrary to this objective. This is where torture finds its place as an acceptable means.

vi. Reflections

Under the guise of the War on Terror, the US has committed itself to a conflict that is a war in name only. The aim of a Just War is not the utter annihilation of a way of life, and no justified war in modernity has committed itself to achieve such an end, even those wherein terror tactics were utilized as part of the effort. The German way of life was not eliminated in the aftermath of the Second World War, only the Nazi war effort, and its chain of command were held accountable in a court of international law to their crimes against humanity. In the War on Terror, imprisonment is not for justice, but for erasure, it is for semantic affect in the effort to break the spirit and will of those facing detainment and the insurgency they represent. Eliminating the insurgent war effort is not a possibility, as their insurgency, the nature of their status as 'unlawful combatants' grants no such unification or legitimacy to their cause. It can only be confronted by the US on the grounds of absolute annihilation.

This conflict marks a significant change in the manner in which war is conducted. Where a state could once freely occupy and subjugate a state or nation for their own ends once they've satisfyingly 'won' a war, it cannot do so in a decolonized world where the right for state independence is protected by international law. The US cannot simply annex Iraq or Afghanistan as a formal colony as a means of control and unlimited access; it is instead doing so by other, more creative, and cruel means. By inflicting unyielding terror upon the states implicated in the War on Terror, it hopes for the unilateral yield to the US war effort, and the welcome of Western values and models of governance. In the establishment of a Western-friendly region, the US, and its allies, will welcome their participation in global trade, and through economic dependence on the West, these newly-formed states will be *de facto* colonies in everything but name only. However, the path to achieving this end for the US, necessitates the complete obliteration, through terror, of the current standing defiance to Western influence and control.

III
<u>On Decolonization as Essential to Insurgent Terrorism</u>

Colonization, Frantz Fanon wrote in *The Wretched of the Earth*, "which sets out to change the order of the world, is, obviously, a program of complete disorder." (Fanon 1961, 27) The colonial precedent of disorder did not end when occurrences of foreign colonial settlement ended, it continues well into the current period of decolonization. The colonial system affected great violence on behalf of the West against much of the world outside of Europe, and in doing so provoked many long wars, periods of unrest, and campaigns of genocide. The legacy and effect of this imposition on history did not end when the physical presence of colonial settlers were violently denied in colonized nations after the liberatory movements of the nineteenth and twentieth centuries. The period of decolonization developed instead into an international realm of influence where colonial systems of power, and their conflicts, remained in political and economic, rather than directly physical terms.

Much of the world has been impacted in one way or another by the violence of colonialism, but in the case of Islamic or heavily Muslim observant nations, violence has remained constant in decolonization, to a degree unprecedented by other nations in Asia and South America. Decolonizing violence remains as long as there is colonial influence, and can be non-violent, though it has never remained as such on both sides simultaneously. France had colonies or settlers in Algeria, Syria, Morocco, Tunisia, and Lebanon, and England in Egypt, Sudan, Iraq, and Palestine from the mid-nineteenth century, and neither country formally left all occupying lands until decades after the Second World War, despite many gaining political independence 1920's and 30's, while some, like Algeria, were colonized up until eight years of fighting ended France's rule in 1962.

However, given that colonialism is primarily an economic system, albeit economics by way of structural violence, the lingering presence of colonial powers in the Middle East happened such that they were in position to take advantage of the massive wealth of oil discovered mid-century in the region. The Western colonial powers developed corporate petroleum interests supported by governments installed, manipulated, or friendly-under-threat-of-violence by the West. Borders were manipulated at the will of colonial powers, or at the behest of Western-friendly nations, as is the case with the elimination of the Kurdish state through annexation into the neighboring countries. The state of Israel, formed in 1948, erased

Palestinian borders and right by heritage to their land in its creation, and formed a permanently Western-friendly state within policing distance of the West's interest in the Middle East's resources, and maintains an unyielding creep onto remaining Palestinian land by way of settlement. During this time, between the 1930's and the 70's, the West enjoyed a cooperative gold rush as Western corporations and governments, as well as Western-friendly heads of state in the Middle East, profited immensely off of foreign resources. This continued until an Islamic resistance, sparked by the Algerian War, saw numerous revolutions overthrow the heads of state seen as tools of Western power for religious, and strongly nationalist and protectionist, leaders. These leaders began to oversee the process of their own decolonization, one less of physical settlement, than on economic and political control. The decolonizing violence in this circumstance takes the form of insurgent terrorism as understood in the context of conflict in the Middle East.

Frantz Fanon, born in colonial Martinique and educated in France as a psychoanalyst, bore witness to the Algerian war. He documented and analyzed not just the chronology of France's war with and subsequent decolonization from Algeria, but the psychology, motivation, and function of the natives under a colonial regime. Fanon describes the colonial context in detail and provides analysis of the evolution of colonial affairs, from subjugation and violence by the settlers transitioning into upheaval and resistance by the natives, and the historical and political precedent of racism and cultural superiority that manifests dangerously in decolonization. Fanon's work, and its elaboration by contemporary philosopher specializing in post-colonial thought Homi K. Bhabha, provides a perspective critical of the Western canon of liberal thought to the study of decolonization; Fanon's is a voice impacted by imperial legacy, and carries heritage of facing direct subjugation and resistance. This perspective is essential to a philosophical analysis of circumstances that resemble or reflect upon his insight.

Where the previous chapters were primarily concerned with the United States' conduct within the broad circumstance of the War on Terror, this chapter reverses focus and concentrates on the people and insurgents occupying Middle Eastern nations implicated in the conflict. Through a thorough analysis of the dynamics of subjugation under colonialism, both its functional aspects as an economic system and as the structure of violent oppression, the aim is to draw parallels between imperialist, colonial projects of the past and the dynamics of power and history at play in the War on Terror. This is not an attempt at the justification of individual or stated acts of violence, but rather the careful restructuring of the context and motivations for the actions taken on both sides of the conflict, with consideration towards the injustice in claiming

equal standing and history between the US and the Middle East. To summarize the understanding thus far, the United States is committing acts of terrorism that far outbalance acts of terrorism rooted in the Middle East. What is to be argued, is that these acts of terrorism stem from a history of violence between these two that is best redefined as imperialist in nature.

iii. On Decolonization as Premise

The distinctive reality of colonialism and the violence that occurs is not that it is committed between two states who see one another as equal, as in the case of Britain seeing Nazi Germany as an equal power with legitimate claim to power and independence for example, but is instead between a colonial power and native who is essentially unequal, and does not have legitimate claim over power and independence. If the settler/native dynamic within colonialism is to be argued as being more relevant to the US/Middle East relationship within the War on Terror than Britain and Germany during World War II, it must first be described before analysis of current events can continue. Within a colonial system, there is a strict divide between the settler and the native: the wealth and power of the European West, and the darker-skinned, poorer inhabitants of land that have resources that the West desires. Fanon describes this reality as such:

> "This world divided into compartments, this world cut in two is inhabited by two different species. The originality of the colonial context is that economic reality, inequality, and the immense difference of ways of life never come to mask the human realities. When you examine at close quarters the colonial context, it is evident that what parcels out the world is to begin with the fact of belonging to or not belonging to a given race, a given species. In the colonies the economic substructure is also a superstructure. The cause is the consequence; you are rich because you are white, you are white because you are rich. … It is neither the act of owning factories, nor estates, nor a bank balance which distinguishes the governing classes. The governing race is first and foremost those who come from elsewhere, those who are unlike the original inhabitants, 'the others.'" (Fanon 1961, 30-1)

The colonial structure is one defined by its disparity. It is essentially antagonistic, as those who bear and bestow rights are omnipresent, if not physically face-to-face with those who have no rights, or have what rights the rights-bearers grant at their discretion. This presents a distorted reality, where hierarchies are determined within the colonial circumstance by cultural precedent on behalf of a foreign entity. In effect, this presents a physically discernible Manichean divide:

the white European's features and values are assumed as greater in value and worth than the darker-skinned native's. When this kind of thinking influences economic structures, it manifests in the labor of those with darker skin, while also unprotected by concepts of human rights, can be subjugated into providing this labor under threat of force or imprisonment. If one state can settle a nation and strip of agency those they see as inferior others, the state can translate racial politics into labor politics.

When the colonial culture assesses the natives, they see an Other. And in their assessment, they denote differences in culture and render their judgement of the native people as essentially different and with lesser human value on the terms by which the native culture does not reflect the colonial values. The relative lack of wealth and cultural development upon strictly European lines marks the native peoples as opposites of the colonists. The natives represent a foil to the colonist's understanding of culture, and does all but paint all that is white as good, and black and evil. It is not enough that the colonists judge the native peoples as lacking in values, but to go so far as to regard them as savages whose culture stands to be erased through the substitution of values, culture, and even the language of colonist.

This systematic oppression of both body and mind permanently impacts the native people. "At times this Manicheism goes to its logical conclusion and dehumanizes the native, or to speak plainly, it turns him into an animal. In fact, the terms the settler uses when he mentions the native are zoological terms. … The native knows all this, and laughs to himself every time he spots an allusion to the animal world in the other's words. For he knows that he is not an animal; and it is precisely at the moment he realizes his humanity that he begins to sharpen the weapons with which he will secure its victory." (Fanon 1961, 32-3) They are antagonized and torn, between their culture and the dominant power, through punishment and promise that they can remain savage or become like, but not entirely, European. It becomes an act of self-empowerment, in this context, to hold any nationalist sentiment, and doing so under threat of punishment breeds conflict. The dual front of violence against the body and of the mind is the distinctive quality of the spaces marked by colonialism. "These interpositions, indeed collaborations of political and psychic violence *within* civic virtue, alienation within identity, drive Fanon to describe the splitting of the colonial space of consciousness and society as marked by a 'Manichaean delirium.'" (Bhabha 2004, 62)

This state of suspended 'Manichean delirium' is fundamentally unsound, as one would expect from one nation's subjugation of another, and stands to be inevitably challenged by the native once the threat of physical violence is no longer enough to contain the colonial status quo.

This conflict, between the reaffirmation of the native and the dominance of the colonial power, takes place first not on the battlefield, but in the head of the native. As long as the delirium is upheld, the native will not dismiss the colonist's claim to power as illegitimate, nor affirm their own identity and culture as not only valuable, but worthy of defending against external manipulation and control.

> "As soon as the native begins to pull on his moorings, and to cause anxiety to the settler, he is handed over to well-meaning souls who in cultural congresses point out to him the specificity and wealth of Western values. … During the period of decolonization, the native's reason is appealed to. He is offered definite values, he is told frequently that decolonization need not mean regression, and that he must put his trust in qualities which are well-tried, solid, and highly esteemed. But it so happens that when the native hears a speech about Western culture he pulls out his knife—or at least he makes sure it is within reach. The violence with which the supremacy of white values is affirmed and the aggressiveness which has permeated the victory of these values over the ways of life and of thought of the native mean that, in revenge, the native laughs in mockery when Western values are mentioned in front of him." (Fanon 1961, 33)

This rebellion, first in the mind of the settler against the influence of the colonist, then in violence, signals the start of the decolonization period. It is a historical process, and does not have an end so distinct as the signing of treaty or the surrender of a colony to independence. But the path to independence, historically, has been most commonly paved with blood. "The naked truth of decolonization evokes for us the searing bullets and bloodstained knives which emanate from it. For if the last shall be first, this will only come to pass after a murderous and decisive struggle between the two protagonists. That affirmed intention to place the last at the head of things, and to make them climb at a pace (too quickly, some say) the well-known steps which characterize an organized society, can only triumph if we use all means to turn the scale, including, of course, that of violence." (Fanon 1961, 28) It transforms each and every one of those oppressed under colonial rule into the makers of a new nation, of the creators of history or the preservers of tradition. The effect of the colonial presence pervades the remaining culture, tainting international relations and creating means for division within the natives (one native group might condemn a class of natives that were privileged within the colonial structure, for example) having established economic ties and influence with the native's resources.

Before the native can enjoy benefits of independence, and explore the smoldering battlefield of post-colonial national development, they have to first push the colonial power out of their land. In Fanon's case, he witnessed the Algerian war, where the Algerian (and heavily

Muslim) population took up arms against the French colonists. After decades of facing whips, torture, and chains, the Algerians faced a French army willing to fight to genocidal lengths to maintain their colonial presence. While a rare few native peoples have been able to secure independence through less bloody campaigns, history proved that colonizers are willing to go to devastating lengths to retain their imperial presence and control over native populations.

<div align="center">iv.   On the Transition to Violence</div>

Central to the construction of the circumstances for colonial violence to exist is the concept of the Other. The Other defines the confrontation of one person with another who that person does not view as the same as themselves, and therefore the second person exists as an Other to the first person's "we". In the colonial context, the "we", the dominant culture force in the colonial narrative, is the colonial power, and the Other, is the native. The Other is a place of exclusion and seclusion, it is denied entry to a brotherhood of humanity that exists between people who regard those included in the "we" as being equal in their allotment of rights and social considerations. They are a part that comprises the whole in the topmost rung of social, political, and economic hierarchies. The Other, is everyone, who for one reason or another, is not in power. "The Other must be seen as the necessary negation of a primordial identity – cultural or psychic – that introduces the system of differentiation which enables the cultural to be signified as a linguistic, symbolic, historic reality. If, as I have suggested, the subject of desire is never simply a Myself, then the Other is never simply an It-self, a front of identity, truth, or misrecognition." (Bhabha 2004, 74) The Other is an It, is a subject, a point of circumstance secondary and contingent to the object, the colonialist, who, with the means to dominate historical narrative, chooses to do so from their point of view and casts themselves as the primary actors in a global stage occupied by Others hierarchically below their stature.

When this occurs, Western imperialists grant themselves executive position in rendering judgement upon the value of the world's people. When this approach to globalism manifests physically in colonialization, the clear distinction is made that there are those who are judged, and those who are there to judge. When a person's, or peoples', value is considered inherent in their being alive, and a given item or thought is allowed the value of whatever a person applies to it, rather than allowing for how valuable a given thing is to one signifying a perquisite for a person's personhood, interpersonal violence does not occur. "Cultures come to be represented by virtue of the processes of iteration and translation through which their meanings are very

vicariously addressed to – *through* – an Other. This erases any essentialist claims for the inherent authenticity or purity of cultures which, when inscribed in the naturalistic sign of the symbolic consciousness frequently become political arguments for the hierarchy and ascendancy of powerful cultures." (Bhabha 2004, 83-4) But this is not how colonists viewed those they colonized, nor how both can exist in decolonization after one having rendered violence and inequity upon another. The colonialists determined their culture as deserving of the right to determine hierarchy, and subjected others to it with violent results.

The native under a colonial regime finds themselves in a state of permanent ongoing oppression, with little no promise of elevation into a dignified personhood status, and what promise there is comes from the compulsion to reshape themselves in the colonist's image. "When the native is confronted with the colonial order of things, he finds he is in a state of permanent tension. The settler's world is a hostile world, which spurns the native, but at the same time it is a world of which he is envious. We have seen that the native never ceases to dream of putting himself in the place of the settler—not of becoming the settler but of substituting himself for the settler." (Fanon 1961, 41) The natives are given by the colonists the ultimatum: denounce your culture, language, and heritage for ours, or accept being the subjugated- it our (colonial) world, and you're going to have to figure out how to exist within it. The stress and psychological damage this imparts on an entire population cannot be understated. Fanon calls this circumstance where the settler chooses to try to bargain with the colonial powers, the attempt to accept their education and their language as a means to achieve better treatment and status within the colonial structure, mimicry. In the absence of the freedom for the natives to challenge themselves on their own terms, "Fanon argues, the colonized can only imitate … In disavowing the culturally differentiated condition of the colonial world – in demanding 'Turn white or disappear' – the colonizer is himself caught in the ambivalence of paranoic identification, alternating between fantasies of megalomania and persecution." (Bhabha 2004, 87-8) And this creates a struggle with increasingly diminishing returns for those who attempt to integrate themselves with the colonial power; as a given settler would gain privileges as the behest and discretion of the colonialists, they find an apparent ceiling in their elevation: their identity as ethnically different, and therefore, forbidden from the pantheon occupied by the white Westerners.

When the impossible end of the demand, "turn white or disappear" makes itself evident to the natives, that there is no possibility of them turning white no matter what they possibly do, the seeds for conflict begin to grow. One cannot live while conscious of their own lack of

freedom, their own place as a subaltern—that is, anyone occupying the powerless underclass within a colonial structure—figure within a structure of oppression without coming to the conclusion that such a structure demands to be opposed and removed. "It has always happened in the struggle for freedom that such a people, formerly lost in an imaginary maze, a prey to unspeakable terrors yet happy to lose themselves in a dreamlike torment, such a people becomes unhinged, reorganizes itself, and in blood and tears gives birth to very real and immediate action. Feeding the moudjahidines* posting sentinels, coming to the help of families which lack the bare necessities, or taking the place of a husband who has been killed or imprisoned: such are the concrete tasks to which the people is called during the struggle for freedom." (Fanon 1961, 44) Resistance takes the form of an awakening, it is a rebirth of a personal, national, or racial consciousness and identity that refuses to be oppressed and accepted as lesser and undeserving of rights and dignity.

Resistance to the colonial structure of oppression produces alarm to those in control of it: the white colonists. In the awakening and resistance of their subjects to the demands placed upon them in subjugation and slavery, comes the challenge to their mode of accruing wealth. The colonial regime will not let go of their means to continued wealth, as it is their state's means for development. No colonist has, in the name of good will, voluntarily relinquished their hold on another people's land upon the native's request for independence. The colonist will defend their nation's interest by any means, an objective made all the more simple when they're defending it against a population against whom they have already committed innumerable transgressions, and are not their equal in deserving rights or agency. This is the reality of the colonial structure, and when "the native discovers reality and transforms it into the pattern of his customs, into the practice of violence and into his plan for freedom." (Fanon 1961, 45) The only way for resistance on the side of the natives is to first affirm themselves as being human, and therefore deserving of rights and independence, then push out the oppressive entity. An entity that carries with it a legacy of violence towards the native is not to be assumed to leave willingly, leaving the natives with little option to reclaim their land than to turn to violence.

v. On Violence as Nation-Building

Resistance, which seeks to dismantle the colonial structure as being dominant over a people serves the dual purpose of both ending the violence suffered under oppression and building, or rebuilding, an independent nation in its place.

"When in 1956, after the capitulation of Monsieur Guy Mollet to the settlers in Algeria, the Front de Liberation Nationale, in a famous leaflet, stated that colonialism only loosens its hold when the knife is at its throat, no Algerian really found these terms too violent. The leaflet only expressed what every Algerian felt at heart: colonialism is not a thinking machine, nor a body endowed with reasoning faculties. It is violence in its natural state, and it will only yield when confronted with greater violence." (Fanon 1961, 48)

The moment a resistance begins forming cooperation between individuals fighting against it, a new political identity and motivation is born: it is a revolution. It is the upheaval of a previous and unjust governing body by one that seeks to represent those who natively occupy the land, and the means to attain self-governance and independence is violence. In another situation, a militarized government may decide to use violence as a means to their ends, amounting only to the affirmation of that government's will. But when an oppressed population decides to unite under violence as a means to liberation, this is violence not as policy, but violence as nation-building. "When militarist Germany decides to settle its frontier disputes by force, we are not in the least surprised; but when the people of Angola, for example, decide to take up arms, when the Algerian people reject all means which are not violent, these are proofs that something has happened or is happening at this very moment. The colonized races, those slaves of modern times, are impatient. They know that this apparent folly alone can put them out of reach of colonial oppression." (Fanon 1961, 57-8) When a colonized society decides to unify against colonizing forces, it becomes a society defined by its acceptance of the rule of violence as necessary to exist in world where the reluctance or inhibition to accept violence, on behalf of the native non-European nation, it exists at risk of the will of those willing to colonize and subjugate it. In the international sphere, these such natives or representatives of underdeveloped countries are not scandalized by Castro donning a military uniform while present at the UN, or by Khrushchev scolding the West with a brandish of his shoe, as this kind of antagonism and refusal to be docile in the face of a power structure that opposes them is central to their current state of nationhood and identity.

However central violence is to their affirmation as legitimate states, the West will criticize and denounce their acceptance of violence as brutal and unjust in turn. But they will respond by saying that the violence they commit is violence committed in turn, but not in kind: no matter the lengths they resort to in their revolution, they will still have not committed the incredible acts of violence enacted by a colonial regime. "The existence of an armed struggle shows that the people are decided to trust to violent methods only. He of whom *they* have never stopped saying that the only language he understands is that of force, decides to give utterance by force. In fact,

as always, the settler has shown him the way he should take if he is to become free. The argument the native chooses has been furnished by the settler, and by an ironic turning of the tables it is the native who now affirms that the colonialist understands nothing but force. The colonial regime owes its legitimacy to force and at no time tries to hide this aspect of things." (Fanon 1961, 66) The colonial structure is founded upon the violence of subjugation and punishment, and in so founding the structure, the colonizers show those they commit the violence against that the means by which to establish a society is violence in turn. When the structure is inverted in the struggle for decolonization, the West's principle of "it's theirs or ours" when approaching native land and resources, becomes "it's them or us" between the native's life and the colonialist's. This paradigm becomes a nation-affirming motto. The native population becomes mobilized in their campaign against the colonialists.

During the time of violent resistance against colonization, action against the colonists unifies the natives and imbues the actions with meaning, with the motivation and principle that they are not just committing acts of violence, but are actively creating an independent nation or identity for themselves. It becomes their work. "To work means to work for the death of the settler. This assumed responsibility for violence allows both strayed and outlawed members of the group to come back again and to find their place once more, to become integrated. Violence is thus seen as comparable to a royal pardon. The colonized man finds his freedom in and through violence. This rule of conduct enlightens the agent because it indicates to him the means and the end." (Fanon 1961, 67-8) In short, the violence committed in the act of, or in the process of, liberation or the establishment of freedom becomes itself a freedom-affirming act. It is the process of empowering not only an individual in their right to resist oppression and injustice inflicted upon them, but the ignition of the spark of a national consciousness of the native population as whole, and its self-appointed right to resist foreign power.

This bond between the revolutionaries bent on furthering decolonization is the birth of a national consciousness. It may not be a consciousness unified in its belief as to how the nation is to best express itself politically or culturally, but it is unified in that it is unique to natives, and it beholden to no interests outside of their own.

> "The practice of violence binds them together as a whole, since each individual forms a violent link in the great chain, a part of the great organism of violence which has surged upward in reaction to the settler's violence in the beginning. The groups recognize each other and the future nation is already indivisible. The armed struggle mobilizes the people; that is to say, it throws them in one way and in one direction. … The mobilization of the masses, when it arises out of the war of liberation,

introduces into each man's consciousness the ideas of a common cause, of a national destiny, and of a collective history. In the same way the second phase, that of the building-up of the nation, is helped on by the existence of this cement which has been mixed with blood and anger. Thus we come to a fuller appreciation of the originality of the words used in these underdeveloped countries." (Fanon 1961, 73-4)

When national consciousness, the recognition of a nation's collective history culture, and right to freedom, becomes affirmed in the native population of a colonized land, the core principles of colonization which determine their rights and culture as lesser, in the global hierarchy of powers, to the West, have been subverted and denied in the minds of the mobilized resistance. This will not change the preference of the West, however, which will continue to regard the actions of the natives as savage and unjustified. To connect this kind of unwillingness to recognize or support self-determination to the War on Terror, consider the aforementioned circumstance of Saddam Hussein's Iraq shifting allegiance, and petroleum trade, away from the secular West to align with and support religiously fundamentalist contemporary Middle Eastern politics. Thus, the ensuing tension and ultimate invasion by the US due to this is an act against Iraq's right to self-determination to align and trade with whomever they please.

There is nothing the native can to do prove their claim to rights and freedom as legitimate and just until the natives have a system of justice of their own. But, until that time, the colonialists will attempt to put down their resistance until such time that they are physically incapable of doing so. "From the moment that the native has chosen the methods of counter-violence, police reprisals automatically call forth reprisals on the side of the nationalists. However, the results are not equivalent, for machine-gunning from airplanes and bombardments from the fleet go far beyond in horror and magnitude any answer the natives can make. This recurring terror de-mystifies once and for all the most estranged members of the colonized race. … Terror, counter-terror, violence, counter-violence: that is what observers bitterly record when they describe the circle of hate." (Fanon 1961, 70) The circle of violence that occurs during the decolonization process continues until an absolute split, the relenting of one side or other that results in the surrender of the rights over the land. If the natives surrender, the colonial structure stands, if temporarily. If the natives succeed in their revolution, the colonizers recede from the land, taking everything they haven't already, and grant independence only begrudgingly. This independence, however, doesn't leave the natives with a tabula rasa, a Garden of Eden from which their newly formed consciousness and identity can spring forth into a state, but often leaves them in position of devastation often worse than the state of affairs prior to being colonized. "The apotheosis of independence is transformed into the curse of independence, and

the colonial power through its immense resources of coercion condemns the young nation to regression. In plain words, the colonial power says: 'Since you want independence, take it and starve.'" (Fanon 1961, 76-7)

The newly independent nation finds itself arriving at a predicament. It has no allies, no infrastructure, no economy, and no assessment of value, resources, or population. It exists in a state of near complete regression to nature, save for the economic channels established in the trade of its resources during colonial time. "In reality the colonial system was concerned with certain forms of wealth and certain resources only— precisely those which provisioned her own industries. Up to the present no serious effort had been made to estimate the riches of the soil or of mineral resources. Thus the young independent nation sees itself obliged to use the economic channels created by the colonial regime. It can, obviously, export to other countries and other currency areas, but the basis of its exports is not fundamentally modified. The colonial regime has carved out certain channels and they must be maintained or catastrophe will threaten." (Fanon 1961, 79) And thus, the young nation reluctantly begins trading with the same economies that once subjugated it, and grants some of the economic power that was just violently seized from their colonizers back to them in the form of resource trading. Therefore, the power structure that existed before and predicated the colonizing force, that once was fundamentally challenged and shaken by revolutionary violence, is allowed to still stand in the means of economics. Decolonization is still extant, then, for a period of time that extends well beyond the physical presence of a colony. It becomes a globalized system of oppression, where the former colonial powers are the wealthy buyers and users of the resources belonging to formerly-colonized lands made dependent on the wealth of those they have no chance of competing against both economically and militarily, in the case of an all-out war.

This circumstance, this context of global inequality between nations and the still Manichean distribution of power sets the stage for the argument that the Middle East is still submerged in the process of decolonization. That is the source for the campaigns of violence and terror, and the West's own campaigns of counter-violence and counter-terror levied against it, despite the pretense of this conflict being a "war". The West has worked to install as many heads of state in the Middle East friendly to their ends as they have toppled regimes unified in their purpose to oppose the West. Saddam Hussein, Muammar Kaddafi, Shah Mohammad Reza of Iran, and Saddam Hussein were all friends of the West when installed, and all fell to nationalist revolutionary forces. The West has worked tirelessly, even violently, to retain control or access to the resources of the region, going so far as to invade Kuwait when Saddam decided

to turn against the West in self-preservation against mounting unrest. These features are features not of war, but of imperialist conflict expanded in scope as to assess relationships globally, rather than within the borders of two nations. As such, there is a broad spread of Western hegemony between Europe and the United States, and their affairs as they interact with the rest of the world as an Other. The time since the 1950's has been a period of decolonization as a political and economic phenomenon on a global scale, between Allies and Others; the wealthy and the resource gatekeepers.

vi. Reflections on Terrorism

If it is accepted that the conflict between the West and the Middle East is imperialist in nature, rather than a directly warlike confrontation between two powers, then the vagueness of the definition of the "War on Terror" makes more sense. If decolonization is the grappling of imperialist supremacy with native self-determination on a global scale, the Manichean rhetoric of the Middle East's militarization posing an "existential threat" to the West falls in line. Within this power dynamic, it is welcome and empowering to be Western and wealthy, and acts of empowerment by those outside of this superstructure with ends divorced from or at odds with the West's are acts of rebellion. It is a direct divide between the Middle East and the West, and any attempt for a Middle Eastern nation to prioritize itself or its people and the national control of its resources is seen as an affront to the West's desire and tacit claim to those resources. This is directly analogous to the premise of violence and resistance, in this case economic violence and resistance, which predicates colonial violence. "It is from such tensions – both psychic and political – that a strategy of subversion emerges. It is a mode of negation which seeks not to unveil the fullness of Man but to manipulate its image. … In Fanon's essay 'Algeria unveiled' the colonizer's attempt to unveil the Algerian woman does not simply turn the veil into a symbol of resistance; it becomes a technique of camouflage, a means of struggle – the veil conceals bombs. The veil that once secured the boundary of the home – the limits of woman – now masks the woman in her revolutionary activity, linking the Arab city and French quarter, transgressing the familial and colonial boundary." (Bhabha 2004, 89-90) Within colonial structures, as stated earlier, the empowerment of the native is interpreted as violence against the colonialist's way of life. To be the Other, and reject the status as such with the refusal to participate in Western dominance, is essentially to rebel.

But the question still remains: what of the moral conditions of this violence? This globalized decolonizing violence is manifest in horrific and unpredictable acts of terrorism against the West. How can violence, even violence in response to oppression, be a viable and

moral response? As Igor Primoratz argues: "Surely what matters from a moral point of view are the moral credentials of the existing order. If the existing social order is morally valuable or at least acceptable, that will tell against any terrorist (and, indeed, any violent) attempt to subvert it. If it is unjust or oppressive, its demise will be morally desirable. In the latter case, we may still oppose the use of terrorism in an attempt to overthrow it, but then we will be motivated by our objection to what terrorism is *independently* of its revolutionary or conservative orientation." (Primoratz 2013, 116) One can condemn the actions of the terrorist and hold that terrorist accountable, but one can also simultaneously hold sympathies for their cause. Primoratz quotes Just War theorist Michael Walzer as stating that the message a terrorist delivers is "*We don't want you here. We will not accept you or make our peace with you as fellow-citizens or partners in any political project. You are not candidates for equality or even co-existence.*" (Primoratz, quot. Walzer 2013, 117) But the mistake Walzer makes in his condemnation of the aims of the insurgent terrorist is to not take into account the context from which the message is being stated. Within the colonial context, the message is modified, as such: '*We no longer want you here. We will not accept you as fellow-citizens or partners in any political project. You are not candidates for equality or even co-existence such that we weren't candidates for same rights in your willingness to dominate us as an Other.*' This hearkens back to the circle of violence and injustice Fanon described in the context of the first resistance to a colonial power. Terrorism becomes then a translation of colonial resistance into the globalized world in a period of decolonization.

Primoratz, to rephrase his definition, outlines the premise for the hypothetical circumstance of morally justified terrorism as:

> "If, in a society, (a) basic human rights of one part of the population are effectively respected while basic human rights or another part of the population are violated; (b) if the only way of overcoming this state of affairs and ensuring the effective respect of basic human rights of all is a limited use of terrorism – that is, the violation of basic human rights of those who end up as victims; finally (c) if terrorism is directed against members of the first group, that terrorism will be morally justified. For it will be enjoined by distributive justice, applied to the problem of violations of basic human rights." (Primoratz 2013, 86)

Insurgents in the Middle East voice their motivations as being primarily anti-Western, directed squarely at those nations who carry with them the legacy of intervention and manipulation in their lands. They see the continued active influence those Western nations have on their own governments and economies, as well as the campaigns of state terror they're subjected to once their government attempts to move away from Western interest, as a massive threat not only to

their physical existence, but to their right as a unified people to determine their own future on their own terms. With this understanding, they resist what is considered Western intervention, finding means to resist in acts of terrorism, which are in turn responded to with acts of state terrorism.

The consequences of such acts of state terrorism present a crisis to those in the Middle East that have them fearing for their continued existence as a people. Here, the question of the right of ongoingness, as discussed in previous chapters, is relevant once again. It is then beginning to be understandable why they resort to terrorism as part of their national interest. One cannot begin to judge or analyze the actions of terrorists without paying consideration to the context and history that gave rise to them. If it can be assumed that the plight of a people who realistically see a threat to their continued way of life or agency as free people carries with it greater moral concern than isolated deaths of non-combatants, and that the right for the these people to defend themselves against such threats is morally hierarchically superior to the right of civilians (populating the state the former peoples are defending themselves against) to not be killed, then it cannot be possible to define the conflict in the Middle along conventional Just War terms.

If that premise is accepted as realistic and justifies this analysis of the 'War on Terror' as being post-colonial in context, we might begin to move away from framing this conflict in the extreme and unrealistic terms that the rational West has to defend itself against a spontaneously occurring insurgency bent on destruction. And rather towards a more human and measured discourse which approaches the conflict as bearing the historical weight of oppression and injustice on a global scale, and seeks to understand and address the issues contained within this context, rather than the obliteration of one as victory for the other.

IIIa
<u>On Post-Colonial Imperialism</u>

Following the conclusion of the previous chapter, this sub-chapter is to address the question unanswered throughout this section: what historically extant colony can be tied to the decolonization premise? While purposefully sidestepping discourse concerning the founding and politics of Israel that requires far more pages of analysis and sourcing than can reasonably be completed here, this sub-chapter refers to Michael Hardt and Antionio Negri's 2001 book *Empire*, which argues that the power structure developed by a globalized system of economics has extended the supremacy of colonialist powers into the post-colonial age by means of economic and constituted power and violence, rather than direct, corporeal subjugation. While there will be references to Europe throughout, as within *Empire* the histories and current state of both European and American supremacy are looked at as compliments with similar ends, emphasis will be made to highlight the United States' role within global supremacy and its relationship to non-western resource and/or labor rich nations. Rather than provide a historical recounting of the US' involvement, economically, militarily, and otherwise in the Middle East, the aim is to analyze the mode and content of the power structure the kind of which subsumes nations, like those in the Middle East, to an imperialist relationship under the United States.

One could, in brief, distill the United States' role and history in the post-colonial imperial project down to "American exceptionalism." The United States' constitution, specifically Article Four, allows the formation of new states by an act of Congress, insofar that existing states aren't territorially infringed upon without the consent of their state government, protected by this line: "The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State." This line in particular plays a direct role in the legality of the US' expansion to the Pacific; prior to the ratification of the Constitution, as several of the first states had claim to land on west coast, like that defined within the Virginia Charter of 1609 which included "the area west to the South Sea," or later, the Pacific Ocean. The systemic denial of the rights of man defined in the Bill of Rights towards the Native population tacitly relegates their existence to that of sub-human, or other-human, as their presence and claim to American land was never equitably recognized, and the precedent of American sovereignty over uninhabited or unclaimed by developed (largely European) states led directly into the realization of the Monroe Doctrine,

which made real the US' capacity for power over and jurisdiction within non-US land as a way to expel Europe's presence in the Americas and guarantee a network of power over Latin, Caribbean, and South American nations.

The Monroe Doctrine declared that any further European colonization of the Americas or interference in the affairs of North or South American states would be viewed as an act of aggression requiring US intervention. That set up a clear distinction between the "Old World" and "New World," and, from a US perspective, justified their dominance over the New. The US took full advantage of its self-appointed stewardship or protectorate over the Americas and injected itself into the economic and political affairs of all involved nations as its de facto leader. Through its promise of protection, the US solidified its sovereignty over the Americas without annexing its land; the US took full advantage of a period wherein numbers of Latin and South American countries were gaining independence from European nations by adopting a foreign policy that traded protection for economic access. Economic access between a strong and developed capitalist nation with a constitution and legacy of expansion and a developing nation with a new or weaker economy resulted in the establishment of economic imperialism without the need for colonial annexation and the growth of an international web of power with the US (and Europe) in its center. "This democratic expansive tendency implicit in the notion of network power must be distinguished from other, purely expansionist and imperialist forms of expansion. The fundamental difference is that the expansiveness of the immanent concept of sovereignty is inclusive, not exclusive. In other words, when it expands, this new sovereignty does not annex or destroy the other powers it faces but on the contrary opens itself to them, including them in the network." (Hardt & Negri 2001, 166) The development of this mode of foreign policy that took place up to the Second World War set the stage for western supremacy in a post-colonial context. In its attempt to cut out Europe from land it wants to control, the US created a system of colonization-by-proxy, and proved that a state needs only to control or make dependent a nation's economy to achieve the ends of colonization—the extraction of capital and labor—and that doing so with the guise of liberalism and consent makes rebellion or arguments of parity within it nearly impossible.

To understand how this kind of economic expansion can develop into a system of power and subjugation, it's critical to understand that economic growth, and particularly capitalist enterprise, demands it. "Capital expands not only to meet the needs of realization and find new markets but also to satisfy the requirements of the subsequent moment in the cycle of accumulation, that is, the process of capitalization. After surplus value has been realized in the

form of money (through intensified markets in the capitalist domain and through reliance on noncapitalist markets), that realized surplus value must be reinvested in production, that is, turned back into capital." (Hardt & Negri 2001, 225) The process of extraction, accumulation of surplus, and reinvestment of labor and capital is, by definition of mode, consumptive. As population, technology, science, and politics demand expansion and growth of an economy well past subsistent means, that economy must reach outside itself for the resources, and often labor, to make growth possible. "The capitalization of realized surplus value requires that for the subsequent cycle of production the capitalist will have to secure for purchase additional supplies of constant capital (raw materials, machinery, and so forth) and additional variable capital (that is, labor power)—and eventually in turn this will require an even greater extension of the market for further realization." (Hardt & Negri 2001, 225) The point at which an economy must reach outside the limits of its borders is the point that pushed nations developing prior to the Second World War to resort to colonization to extract the labor and resources necessary to support their appetites. The US, late to the world market relative to Europe, had to develop a system to meet the same ends as Europe, but with means that appear to respect the wave of independence colonized nations had achieved. Capitalism provides an answer: independent nations can be capitalist or non-capitalist, can structure their labor any way they deem fit, but their resources, once extracted and traded, achieve the same ends as the extraction by direct force within a colony.

> "The search for additional constant capital (in particular, more and newer materials) drives capital toward a kind of imperialism characterized by pillage and theft. Capital, Rosa Luxemburg asserts, 'ransacks the whole world, it procures its means of production from all corners of the earth, seizing them, if necessary by force, from all levels of civilisation and from all forms of society . . . It becomes necessary for capital progressively to dispose ever more fully of the whole globe, to acquire an unlimited choice of means of production, with regard to both quality and quantity, so as to find productive employment for the surplus value it has realised.' In the acquisition of additional means of production, capital does relate to and rely on its noncapitalist environment, but it does not internalize that environment—or rather, it does not necessarily make that environment capitalist. The outside remains outside. For example, gold and diamonds can be extracted from Peru and South Africa or sugarcane from Jamaica and Java perfectly well while those societies and that production continue to function through noncapitalist relations." (Hardt & Negri 2001, 225-6)

Once the web of power begins to expand under this global capitalist enterprise, something unique begins to form. The web, which is by all means outside of the constituted inside of the

borders of US, subsumes the external as a form of internal, and gives birth to a new and perpetually evolving whole. Some states are more resource rich in minerals, fuel, or agriculture, and some rich in labor or specific goods, and over time the capitalist pull on these states to organize themselves to more efficiently meet these demands as they become dependent on their participation in the global marketplace. "Indeed, when the Marxist critics of imperialism have recognized the processes of the internalization of capital's outside, they have generally underestimated the significance of the uneven development and geographical difference implicit in them. Each segment of the noncapitalist environment is transformed *differently*, and all are integrated *organically* into the expanding body of capital. In other words, the different segments of the outside are internalized not on a model of similitude but as different organs that function together in one coherent body." (Hardt & Negri 2001, 227) As decolonization swept through Americas, Africa, and Asia in the period after the Second World War, the world was ready for a new hierarchy of the global powers as Europe's colonial enterprise by military came to a close, while the US was ready and willing to wield its power through the dollar. These newly independent nations did all they could to counteract the damage of colonization, and found themselves a powerful ally in the US' willingness to recognize the legitimacy of their state, and an established market they can structure themselves to participate within. This is the manner in which Hardt and Negri's Empire developed from method to realization: the nations of the world turning to the US' dollar market to modernize established an opt-in consented form of subjugation and economic dependency that hit its harmful reality in a way that Europe's military-led colonies never could.

In developing a form of economic power out of the principles of democratic participation, the US established a new hegemony that requires no physical presence, no physical annexation or formal leader. The US can position itself as a king over vassal lands without ever having to demand fealty from a government. The US' proposition was simple: modernize with us, or try to survive without us. "First of all, postmodern imperial monarchy involves rule over the unity of the world market, and thus it is called on to guarantee the circulation of goods, technologies, and labor power—to guarantee, in effect, the collective dimension of the market. The processes of the globalization of monarchic power, however, can make sense only if we consider them in terms of the series of hybridizations that monarchy operates with the other forms of power. Imperial monarchy is not located in a separate isolable place—and our postmodern Empire has no Rome. The monarchic body is itself multiform and spatially diffuse." (Hardt & Negri 2001, 317) While the US never explicitly named itself king (however clearly that sentiment is still conveyed by demanding the global flow of oil be traded on the dollar,

regardless) the hierarchy was always clear through the pervasiveness of First and Third World ordering. "Many argued, beginning at least as early as the 1970s, that the Third World never really existed, in the sense that the conception attempts to pose as a homogeneous unit an essentially diverse set of nations, failing to grasp and even negating the significant social, economic, and cultural differences between Paraguay and Pakistan, Morocco and Mozambique. Recognizing this real multiplicity, however, should not blind us to the fact that, from the point of view of capital in its march of global conquest, such a unitary and homogenizing conception did have a certain validity." (Hardt & Negri 2001, 333) This point, that sociologically, economically, geographically, and in almost every single manner, the homogenization of an incredible multitude of so-called Third World nations into one blur is an irresponsible and erasive concept. However, within the confines of the system of Empire, that distinction holds up; there is a very clearly understood divide between the First World of the US and Western Europe which regulates, protects, and insures the flow of capital and resources within Hardt and Negri's Empire, and the Third World from which the capital and resources themselves are extracted. This form of supremacy and power, with its infinite capacity to adapt, restructure, and redefine itself becomes almost impossible to rebel against. To rebel against this superstructure is to rebel against modernity.

This structure, Empire, is an answer to the originally stated question: "what colony?" To be politically minded today in the slightest is to have some idea of the incredibly involved past and present the US has had in the Middle East, both on friendly and unfriendly terms, and the economic center of these action. The thesis and analysis within Hardt and Negri's *Empire* allows us to continue the dialogue of imperial supremacy that dominated the colonial era well into modernity and postmodernity without falling prey to its democratic trappings and making invisible the very real and immensely powerful power structure that has set the stage for decolonizing violence to manifest within a post-colonial world.

IV
<u>Reflections</u>

To summarize in brief what has been covered up to this point: the first chapter, *On the Definition of Terrorism*, a definition was developed to address the unique characteristics of terrorism, as distinct from all other violent means. Through understanding terrorism's primary target as the coercion of an opposing state or society, three forms of terrorism (individual, state-sponsored, and state), distinct in their context, aim, and scale, were defined in order to allow for an analysis of the War on Terror. Before concluding this first chapter, the presence of Just War theory within existing discourse concerning the War on Terror is addressed and demonstrated to be fundamentally unfit to apply to or account for any actions within or the wider scope of the conflict.

The second chapter *On State Terrorism*, serves to expand greatly upon the definition proposed in the previous chapter for state terrorism, both its features and ethics, as well as how it has manifested specifically within the realm of the War on Terror, and apply this definition in a moral accounting of the United States' conduct. It is found that when the definition for terrorism described prior is applied to possible actions a state has available to them, it is concluded that it is entirely possible, and historically accurate, that multiple states, including the United States, has committed repeated acts of terrorism against others. If terrorism is unique in its violent means towards persuasion, then the strongest military states in the world are capable of wielding more violent persuasion than any individual or independent group. It is argued then, that with this exponentially higher capacity to commit acts of terrorism or human rights abuse, the state carries with it an exponentially higher ethical responsibility to not commit acts of terror and to defend against them. It is only the individual that can possibly attempt to argue that they have no choice available to them other than violence; the state cannot possibly reasonably claim the same. The rest of the chapter analyzes the extent of the violence in the US' definition of an enemy combatant in the War on Terror, and utilized the application of torture as a case study for state terrorist action in the conflict. A measured reorganization of the main points of this chapter then serves to justify the claim that the United States is participating in a campaign of terror with theoretically distinct features that are, under analysis, altogether convincing as fundamentally terrorist in nature.

The third chapter, *On Decolonization as Essential to Insurgent Terrorism*, tackles the issue of the Middle Eastern insurgents and individual terrorists and terrorist groups themselves, and attempts to reframe the context of their insurgency away from that of presenting an equal opponent in war, to that of the violence of the oppressed and the oppressor that occurs within the colonial and post-colonial context. After an analysis of the features and dynamics of the settler/native relationship that occurs within the colonial structure, attention shifts to investigate specifically how the divide that's found between the oppressor and the oppressed, the settler and the native, transitions into violence and rebellion as means to native liberation. The chapter then builds directly off that liberating violence, and discusses the history of such violence being the stage dressing for not only the start of a regime, but the self-definition of a state identity. When the analysis of the defining characteristics of decolonizing violence is applied to the War on Terror, it is concluded that this conflict resembles the violence of decolonization far more than it resembles any just or equal war of the past.

The objective of this is to allow the ability to recognize precedence in the colonial conflicts of the past within discourse of the still-ongoing War on Terror, and the justice that comes in undoing the inability to acknowledge the ethical disparity and relative threat to existence and self-determination of the peoples on each side of the conflict. To continue to wage this war as if it were any other legal war will continue to create the same unbalanced and unyielding devastation that the last 27 years since 1990 have brought us. A fundamental shift in the understanding of the dynamics between both parties, and the aims of a population facing a decolonizing struggle, can lead to a more equitable and possible resolution to this conflict before complete annihilation of one side is manifest. Tying this conflict to the precedent set by decolonizing struggles of the past allows the transition away from destructive nature of circular militarized violence, and towards the fundamentally creative era of postcolonial reconstruction: socially and economically.

VI
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