

A discussion with Michael Walzer

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Since the publication in 1977 of his book on war, *Just and Unjust Wars* (which has since become a classic), Michael Walzer is one of the outstanding thinkers on just war theory, terrorism and war in general. His numerous books – which have been translated in more than 10 languages - include *Obligations: Essays on Disobedience, War and Citizenship* (Harvard University Press, 1970), *Spheres of Justice* (Basic Books, 1983), *On Toleration* (Yale University Press, 1997) and more recently *Arguing about War* (Yale University Press, 2004).

Prof. Walzer, who is the UPS Foundation Professor at the Institute for Advanced Studies at Princeton University (USA), is also the author of numerous articles on war, terrorism and other related issues and the editor of *Dissent* magazine.

Terrorism and supreme emergencies

Terrorisme.net – Prof. Walzer, you defend the principle of non-combatant immunity. However in extreme cases, this principle may be overridden. These cases are called “supreme emergencies”. You define two conditions for those emergencies: the imminence of a certain danger and its nature (it must be “of an unusual and horrifying kind”). Recent studies have shown that people defending fundamentalist worldviews very often consider that the threat they are facing is of an “unusual and horrifying kind” (linked to the “devil”) and simultaneously is already at work against them and their fellow believers. In one of your articles, you wrote that terrorism could be justified “only if the oppression to which the terrorists claimed to be responding was genocidal in character”. Could not certain

fundamentalists practicing violence invoke the argument of “supreme emergencies” to justify their deeds, in addition to the religious justification?

Michael Walzer – It is a problem with all political and moral terms: they can be used in ways that the people who first used them did not intend. So, for example, Communist Bulgaria could be called a people’s democracy. I think of supreme emergency as an objective condition, which means that the danger has really to be imminent and has to be, realistically, of an unusual and horrifying kind. So I would not want to recognize religious fantasies as cases of supreme emergency. However in Bosnia it was not a fantasy, there really was terrible violence. But there also was non-terrorist resistance, and there was a good chance of working for the kind of intervention that eventually occurred. So you were pretty far from the stage I would think when the resort to something like the killing of innocent people could possibly be excused.

Terrorisme.net – *But if I attempt to place myself in those people’s framework, they will probably objectively tell you that the so-called “Ummah” is under attack.*

Michael Walzer – Yes, but you will have to explain to them that it is not the case in the sense that they are claiming that it is the case. These kinds of arguments go on all the time in politics. There is no way of devising a moral language that is going to settle these arguments in advance. There is no a priori formulation that is going to set you free from those difficulties. The Bulgarian Communists would have said that they really did represent the working class, and the working class was the majority, and this was a democracy. And you would have to say “no, that is not the case,” and then explain what democracy in fact requires. And that is all you can do. This is a common feature of political debate; it is like “one man’s freedom fighter is another man’s terrorist”--and all you can do is to disagree with that and offer a definition of terrorism and of freedom fighting that distinguishes the two. But there is also another just war criteria that I do not talk about much because it raises all kinds of problems of its own: it is the “effectiveness” of what you are doing, the criteria of the

“probability of winning”. For example, a Jewish terrorist campaign against German civilians in 1943 would certainly not have been effective in saving Jewish lives. And a terrorist campaign in Bosnia would also have been ineffective; it would only have made the Serbs look better. It would not have enforced the moral distinction that intervention was eventually based on.

Terrorisme.net – *In your article “9/11: five questions about terrorism” (2002), you define terrorism as the “deliberate killing of innocent people, at random, in order to spread fear through a whole population and force the hand of its political leaders”. In your just war framework, though, you consider soldiers as the paradigm of non-innocents, due to their capacity of harming. How would you characterize the soldiers that have been victims of terrorist attacks (there are numerous cases either in Israel or in Lebanon in 1983 for example)?*

Michael Walzer – My instinct is to say that attacks on soldiers are not terrorist attacks. That does not make them right, terrorism is not the only negative moral term in our vocabulary. I did not think that the plane that flew into the Pentagon in 2001 was a terrorist attack or, better said, it was a terrorist attack only because the people in the plane were innocent civilians who were being used and murdered. But if you imagine an attack on the Pentagon without those innocent people in the plane, that would not have been a terrorist attack--whereas the attack on the Twin Towers was terroristic.

I feel the same way in the Israeli cases: whatever you want to say about Palestinian resistance to the occupation, there is a difference between attacking soldiers and killing civilians, and it is an important moral difference. Now there are ambiguous cases. In the film “The Sorrow and the Pity” - Marcel Ophüls’s movie about the German occupation of France - there is a wonderfully complicated moment when, after the French have surrendered, Vichy has been created, the Germans are in the North, and there is a column of German soldiers marching on a French country road. Their guns are not “at the ready”, just on their backs, and they march past a group of peasants working in the fields; but these are not really peasants, and as the

soldiers march past, the “peasants” attack them. It is the example I bring in my *Just and Unjust Wars*. Now the Germans said, this is terrorism. And you can make that case because the French had surrendered, the German soldiers were no longer fighting men; they thought they were in a safe place; that is why they were not moving more cautiously through the countryside. But still, an attack on soldiers is different from an attack on civilians--and there were German civilians and even families in Paris and other cities and the French resistance did not try to kill them. So I would work very hard to maintain that distinction.

Terrorisme.net – *However in the historiography of terrorism, what happened in 1983 in Lebanon and at the Pentagon is still considered terrorism.*

Michael Walzer – I would resist that; I want to hold on to that distinction. It does not mean that I would not condemn the killing of those Marines in Beirut. I might even be critical of the killing of the German soldiers in France--although the American presence in Lebanon was much less ugly than the German presence in France. In any case, we need to look for other terms of condemnation; we need to have available a more complicated vocabulary than just “terrorism”.

Terrorisme.net – *Do you think that after what happened after the attacks of London or New York, this very distinction between soldiers and civilians - which is at the core of your work - can be maintained, when we know that in asymmetrical warfare and terrorism nowadays civilians are usually perpetrating the attacks?*

Michael Walzer – That is also true to some extent in guerrilla warfare or in any form of informal warfare. But that just means, you make the distinctions as best you can. The members of a terrorist organisation, the active members, are like the members of an army; and you try as best you can to identify them and go after them. That is why so much of the war on terrorism is actually police work--because the identification is much harder than it is in combat. But we also have rules for the police, who are not allowed to kill civilians even if the

people they are after are also (criminal) civilians. That is why the framework of the “war on terrorism” is often irrelevant, and the relevant rules are much more like the rules of police work. But the police also make distinctions, they have their own combatant/non-combatant distinction. If you think about the rules of police work--for example, the rules on “collateral damage” are much more constraining than those for soldiers. We really do not want the police firing into a crowd of civilians even if that means letting the criminals escape.

***Terrorisme.net** – So why use the framework of war, as you do in your essays?*

Michael Walzer – In a new essay that will soon be published, I talk about how you have to negotiate between the concept of police work and the concept of war. I use the example of the killing of those 5 Al Qaeda militants in Yemen with an American missile. Imagine that the same attack had taken place at the same time against the same people in Afghanistan rather than Yemen: it would have been an act of war, and we would have had no trouble with it, assuming that the Al Qaeda people were really Al Qaeda people. But if the missile attack had happened in Philadelphia, we would have been horrified: that is not the way you are allowed to behave in a city at peace; you would have had to arrest the people, provide defense attorneys, and all that. Now, Yemen is somewhere in between Afghanistan and Philadelphia--you have to negotiate the in-between space, and I try to suggest some ways of doing that.

Collective responsibility and cultural relativism

***Terrorisme.net** – After the London bombings on 7/7, a cleric claiming to be “Al-Tartusi” justified the attacks by saying that in the UK the most important political decisions are “based on public support voiced through the British Parliament” which is itself elected by the people. As the Parliament voted in favor of the invasion of Iraq, the electors would be responsible. What would be your answer to people ascribing a kind of collective responsibility to electors of democracies that are under terrorist attacks (like the U.S, Spain or England)?*

Michael Walzer – I think collective responsibility of this sort is just an obvious fallacy, both because the people you are killing include people who voted for the government, but also people who voted against it, and also people who are politically indifferent, inactive, not engaged (after all people have a right to be disengaged); and it includes children who did not participate at all. If you could invent a bomb that only kills, for example, Republicans, then maybe there would be something to talk about, though I would still want to distinguish between ordinary citizens and people materially engaged in the war effort. Anyway, since there is no such bomb, it is not even an issue that needs to be discussed. Indiscriminate killing is bound to involve people who are not responsible, and who are obviously not responsible.

Terrorisme.net – *In that same article, Al-Tartusi argued that the “distinction between a soldier and a civilian is a modern one and has no basis in Islamic law.” What would be your answer to such cultural relativism (i.e the thesis that certain elements are the product of a culture and are not “transposable” to other cultures) that has been in the limelight in the past few months/ years?*

Michael Walzer – I am almost certain that some version of the civilian/soldier/combatant/non-combatant distinction has emerged and been discussed in every major human civilization and culture. Perhaps the earliest form it takes is – you already get this in the Bible – to mark off men on the one side and women and children on the other. And since children include male children, that is in fact very close to the combatant/non-combatant distinction--in many of those societies all men were fighters. I just do not believe that this distinction does not appear in Muslim law; I am sure there are Muslim discussions about why killing women and children is wrong. The same distinction appears in Greek civilization, in Jewish civilization, in China, India...

My view of cultural relativism is quite limited: I think that the most basic human values of life and liberty are in fact universal, even if they get expressed in different idioms. Our rights' language is not universal, but the value attached to life and liberty is. I would even argue for a naturalistic foundation for this universalism – if I were pushed to provide the foundationalist

argument that I never want to provide: a general conception of human vulnerability. All human beings are vulnerable in the same way. It is easy to kill, enslave, and dominate us, and the arguments against doing that are common and very well known. I am sure anthropologists can turn up some peculiar and tiny human group, in a corner of New Guinea possibly, which does not have these values, but all the higher civilizations, these laws of war - because wars are fought across cultural boundaries - have been universal almost from the beginning. When we bombed Vietnamese villages, Lyndon Johnson insisted that we were not doing that because he knew that it was wrong to do it, and the North Vietnamese condemned us for killing civilians, because they also knew that it was wrong. The soldier/civilian distinction that emerged in the 19th century is just a particular manifestation of arguments and principles that are much older and that have been expressed in different idioms, in different cultures.

The transformation of war and the just war paradigm

Terrorisme.net – The AKUF (Arbeitsgemeinschaft Kriegsursachenforschung an der Universität Hamburg) presented some years ago statistics about the development of war since 1945. Among these developments, it is interesting to point out the fact that wars between states represent only 16% of all wars that happened between 1945 and 1992. In 1998 and 1999, this rate dropped to almost 10 %. Considering the foundation of your legalist paradigm, which is based on wars between states, isn't this paradigm and any just war theory relying on a similar foundation in need of a serious revision? Did not we enter in a "post-classical war" era that would necessitate a fundamental revision of the just war framework?

Michael Walzer – Let us assume that it is the case, that most wars in the world today are civil wars. What does that change? It may pose problems for international law. Whether it poses problems for just war theory or for any other of the moral arguments that we want to make about killing, I am not sure. Consider the American civil war. First of all, so far as *jus in bello* goes, all of the arguments that arose in the civil war are familiar: the treatment of prisoners, the endangering and killing of civilians, Sherman's brutal "march to the sea," which was

condemned by Southern writers for very good *jus in bello* reasons. I cannot think of any unfamiliar arguments that might require significant revision of the theory. There were issues in international law to deal with, for example, British attempts to help the South, because they were buying cotton there. John Stuart Mill wrote a passionate essay against doing that, and there are now provisions in international law about external states intervening in civil wars. There are also now arguments in just war theory about that, beginning from John Stuart Mill's essay *On Non-Intervention*. And again, I do not think that those are new.

Terrorisme.net – *But in your framework, the “moral entities” or “persons” are states. In asymmetric warfare, however, the two enemies facing each other are not necessarily states anymore (there are for example states against a network etc.)?*

Michael Walzer – Maybe what I am struggling to do is to loosen the framework enough so that it can still work. Someone else might come along and provide a new framework, and we would have to argue about whether that was better. Look at the Afghanistan war: my argument in defense of the war was that we had been attacked by a terrorist organization, which had established a partnership with the Taliban government of Afghanistan. It was not that the Taliban government was harboring a terrorist organization in the way that the Syrian government provides office space for Hamas and Hezbollah. This was an active partnership. The Taliban government was providing Al Qaeda with all the advantages of sovereignty, most importantly a territorial base, where they could bring people to train them and organize attacks--and that made the Taliban government the legitimate object of an American attack. Now if that is not the case, if there is no active partnership of that sort, if the relations are much more nebulous, then war is obviously not the right response. If you are worried with what the Syrians are doing with Hamas, you have to use political or economic pressure, find ways to cooperate with international police forces, persuade the Syrians to use their own police. Does that mean that the theory of just war does not work in those cases? Rather, the theory tells us not to go to war with Syria the way we went to war with Afghanistan. So it is still doing some work.

***Terrorisme.net** – But the problem nowadays seems to be that we apply the war framework on every conflict...*

***Michael Walzer** – A good just war theorist would say: no, you cannot do that and the theory would support that negative response; and the theory should have said “no” to the Irak war for those reasons.*

***Terrorisme.net** – The military historian Martin van Creveld, in an interview he gave some years suggested indirectly (without actually endorsing it) invoking the categories of “innocent” and “non-innocent” to characterize soldiers and civilians/non-combatants in the war in Chechnya and arguing that the “classical” laws of war do not hold anymore. Considering the erosion of classical wars, do you think we should introduce new moral categories to define the protagonists of war (in a kind of parallel to what you suggest for the victims of terrorism)?*

***Michael Walzer** – I would want to look at cases. If in fact, the combatant/non-combatant categories do not work, then we have to find some other distinctions that do because we will still want to constrain the use of force and to defend some set of people, whether they are called civilians or something else. It still seems to me that some version of the combatant/non-combatant distinction is the one we are going to keep going back to; I cannot imagine any other. Look at some recent essays by the American philosopher Jeff McMahan: you will find that he is proposing to use innocent/non-innocent instead of civilian/soldier. His argument is that some soldiers are innocent and some civilians are non-innocent, and we should try to find ways of making those distinctions. But in my view he has not been successful in suggesting how we could discriminate among the civilian population or among the soldier population. You will see he does not have many examples of what he wants to do....*

To be precise, for me “innocence” is a term of art. When we say that civilians are innocent, we mean that they are disengaged from the military enterprise, they are not material

supporters, they are neither soldiers nor are they carrying supplies to the soldiers, nor are they working in factories making tanks and missiles. Whether they are morally supportive of the war effort (or not) does not matter. I do not think that it is crazy to say that someone going to work in a factory producing missiles in wartime loses his “innocence” while he is engaged in direct support for the war effort. People who are disengaged from all military and war-related activity, even if their state of mind is pro-war, are innocent because we as fighters have no access to their state of mind. They are presumptively innocent because their practical activities do not engage them militarily.

Jus post bellum

Terrorisme.net – *The recent war in Iraq and the postwar situation have dramatically put in the limelight the necessity of a valid jus post bellum. You suggest that “self-determination, popular legitimacy, civil rights, the idea of common good and the distribution of benefits” be the criteria constituting the jus post bellum (in a similar vein to the reconstruction of post Nazi Germany). But what if democracy A occupies democracy B, because B has unjustly attacked A (even if it was democratically validated). In the case of B, the criteria you propose are more or less satisfied. Wouldn’t there be a need for complementary criteria? What could they be?*

Michael Walzer – In the case of defeated democracy B, the government would probably be maintained, and only questions of security and reparation would arise. The first thing that A has a right to insist on is that there are some safeguards against another attack. This can be achieved in a variety of ways, for example, through a total or partial demilitarization, some limitation on rearmament, some set of constraints on the size of the army, and so on. These constraints could be enforced either by democracy A itself or, better, by some international agency. But once that is done, you could still ask “Is the occupation of country B by country A to the material benefit of country A?” “Are they trying to control the oil or are they insisting on military bases?” All those issues would still arise. I have not produced a full-scale theory

of *jus post bellum*-- somebody else will have to do all the work that is required. I am just suggesting that these would be the kinds of criteria that might be required.

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