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Responding Morally to Terrorism

A thesis submitted in partial fulfillment of the
requirements for the degree of Master of Arts in
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by

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Abstract

Terrorism poses intellectual challenges for just war theory. In my thesis, I argue that states who have experienced a terrorist attack should not declare war immediately because a moral state response should be proportionate to the severity of the attack. I offer a terrorism response scale that states should consult if they wish to respond to the attack morally. The scale has five levels of proportionate response to different levels of terrorist attacks. It takes into consideration the death toll of the attack, how much damage was done, how much fear it caused, and also the strength of the group and how likely it is the group will or can attack again. This argument fills a gap in the existing philosophical scholarship and offers a theory of moral state response to terrorism that is different from just war theory.

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Introduction

Terrorism is becoming more frequent in the modern day than ever before. During the years 2000 to 2009, there was a steady stream of approximately 2,000 to 4,000 terrorist attacks per year.^{1,2} From 2010 to 2014, the number rose from just above 4,000 attacks to over 12,000 per year.³ The biggest terrorist attack in history, with a death toll of over 1,000 and with catastrophic damage, was the September 11th attack in the year 2001. Terrorist attacks have unfortunately become a part of many people's everyday lives, whether they are the victims of attacks or they read about them in the news.

Terrorist attacks are random and cannot be fully monitored or prevented. In this thesis, I argue that the way a state responds to a terrorist attack is their best chance at controlling the aspects of a terrorist attack which they actually can control, and also their best chance at protecting their citizens from further harm.⁴ A state can take certain measures to protect their citizens from terrorist attacks but they cannot control what actions terrorist groups take, when they are going to take them, or where they are going to be carried out. What a state should be focused on is the protection of their citizens in the immediate aftermath of an attack and the way in which they are going to respond. In this thesis, I argue that a state should respond in a morally proportionate manner, meaning the amount of good that comes from the attack must be proportionate to the amount of evil that will

¹ This includes attacks with unknown and 0 fatalities.

² Global Terrorism Database. Last modified June 2015.

https://www.start.umd.edu/gtd/search/Results.aspx?start_yearonly=2000&end_yearonly=2014&start_year=&start_month=&start_day=&end_year=&end_month=&end_day=&asmSelect0=&asmSelect1=&criterion1=yes&dtp2=some&success=no&casualties_type=b&casualties_max=

³ Ibid.

⁴ I agree with Merriam-Webster dictionary's definition of a state: "a politically organized body of people usually occupying a definite territory; *especially*: one that is sovereign."

come from it, and the state must abide by certain moral rules of fairness. These rules allow the state to act in self-defense, partake in actions that may physically impede the terrorist group, and take the measures necessary to act upon a wrong done to them while still protecting their citizens.

There is a lack of scholarly discussion about how to respond morally to a terrorist attack and my aim in this thesis is to remedy this lack. The literature that does elaborate on how a state should respond claims that declaring war is a morally appropriate response because of the physical and emotional harm the terrorist group has brought upon the state. Even though declaring a just war is moral in some cases, in other cases it will only bring more harm unto the victim state's citizens, whether this is immediate or in the long run. And although this argument is based mostly on protecting the wellbeing of the victim state's citizens, declaring war on a country is often not a sensible option because the terrorist group and the country from which its activities are planned are often distinct entities. The civilians of the country from which the terrorist group hails do not deserve to die because of the action the terrorist group carried out. With war not available as a response in some cases, a state is left without other moral options of response. I present a morally proportionate response to terrorism, aiming ultimately to rectify the gap within literature and offer more options of response which will prevent states from carrying out immoral and disproportionate actions and encourage them to partake in actions grounded in self-defense and which will increase the security and safety of their citizens.

In chapter one, I define the word terrorism. One cannot move forward with an account of response to an action without first figuring out what that action is. The definition of terrorism that I believe is most tenable is "violence committed against

noncombatants or property in order to create fear and achieve political objectives.” This definition of terrorism is inclusive because terrorism has evolved so much over time and there are many variations of what constitutes terrorism. Terrorist groups are using more advanced and destructive weapons; there are attacks perpetrated by individuals and groups; there are attacks which happen within wartime, and there are attacks aimed at physical property instead of human beings. By allowing my definition to be inclusive and consider all of these attacks, I come to a deeper understanding of the terrorism happening in the world today which allows me to determine proper state responses to terrorism. The definition presented here also conveys the moral wrong of terrorism, which is that such attacks harm innocent civilians. Terrorism is a violent attack brought upon unsuspecting people who should have the right to live their lives with a sense of physical security. Terrorism is a violation of this human right.⁵

Within chapter one I differentiate between noncombatants and combatants. A combatant is someone who is part of a state’s military or law enforcement who is presently armed at the time of the attack. A noncombatant is someone who is part of the military or law enforcement who is not presently armed at the time of the attack, or someone who is not part of these groups and would otherwise be referred to as an innocent civilian. A member of the military or a law enforcement officer who is not armed during the attack presents no current threat to the enemy and therefore ought to be treated as anyone else who is unarmed. It is important to differentiate between these two

⁵ By rights, I mean a combination of natural rights and positive rights. Humans have a natural right to not have their person violated because of the inherent goodness of autonomy. They also have a positive right to not have their person nor their lives violated. There are repercussions brought amongst the person or people who violate this right.

terms because it is a common belief that terrorism cannot be brought against combatants because they sign up to risk their lives for the protection of their country. However, there are certain attacks carried out against combatants which have all of the characteristics of terrorism and ought to be examined as such to consider if a response should be carried out and, if so, what kind. I use arguments from David Rodin and Virginia Held to support my argument, and argue against claims made by Michael Walzer, Igor Primoratz, and Walter Laqueur.

I also argue that intention is one of the determining factors of terrorism. If the terrorist does not have the intent to create fear, the attack might not be labeled terrorism. Here I argue against Eric Reitan, who claims if the motives come to light after an attack that was believed to be terrorism, what difference does it make if the motives were to cause fear or not? Terrorists assume they are going to cause fear and terrorize a secondary group, and therefore intent is an important characteristic of terrorism. This secondary group is pertinent to the definition of terrorism because, no matter the terrorist's reasons for attacking a primary group, it is almost always the secondary group they are trying to coerce through their intention to create fear. Then I argue that death does not have to be a factor in the definition of terrorism and attacks carried out on property that do not result in any deaths can still be labeled terrorism because these attacks instills fear in the state and the community and may rob them of their right to feel safe in their everyday lives. I end chapter one by determining what experiencing a terrorist attack means. Terrorism is beginning to look like other forms of political violence and this is making it harder to discern. Therefore, by having a definition that is inclusive and allows these new, difficult to distinguish forms of terrorism to be analyzed

as possible terrorist attacks, it helps one to recognize terrorism when it has happened. Following an exclusive definition that does not take into account what modern day terrorism looks like would hinder a state's ability to determine whether it has experienced a terrorist attack. That is why the definition of terrorism argued in chapter one is the most tenable and is useful to a state when determining how to proceed forward with moral response.

In chapter two I focus on what constitutes morally appropriate action and why just war theory is the incorrect theory to immediately turn to when looking for moral response. I argue against Joseph Boyle's claims that a state has the right to undertake military action in response to a terrorist attack under the conditions of just cause, right intention, and last resort from the just war theory. In contrast to Boyle's argument, I claim that a state ought not always act upon their just cause even if it has one because declaring war puts citizens in danger. When just cause is used to declare war in response to a terrorist attack, there is no consideration of proportionality. Boyle also abides by the contemporary reading of just cause which says that a state can respond to any attack that harms the citizens. I agree with this statement, but what I disagree with is that when a state turns to just war theory as the first response to a terrorist attack, it implies that the state is looking to wage war. By claiming the state has a just cause according to the conditions of the just war theory, they are looking for a reason to act within a theory that leads to a declaration of war. This is problematic because waging war harms more citizens than other actions might. When a state declares war they are opening a pathway, legally and morally, for the terrorist group or country to fight back. This also shows the lack of options of moral response within contemporary literature—states are looking for

options they can act upon and just war theory lays out steps they can take in self-defense when situations like terrorist attacks occur.

Finally, I address Boyle's argument regarding last resort. Boyle, along with many contemporary philosophers, claims that a state can only respond with war when it is a last resort. The problem that arises here is: what is the last resort? This question helps provide support for my argument that states do not have appropriate moral options of response because a state is told by just war theory to declare war only as the last resort without a comprehensive understanding of what actions a state ought to take before last resort.

In chapter three, I compare two arguments from Michael Walzer to show how emotion plays a large factor in state response and why this helps supports my claim that a state should have a scale on which to base a proportionate response. This chapter culminates with the terrorism response scale. In Walzer's 1988 article, he claims that resistance and repression can be carried out as a response to a terrorist attack but they must not cross the line into actions that look similar to the terrorist acts that were brought upon the state. His main concern here is that civilians of the terrorist's state not be harmed during the response. This is a measured approach with which I agree. Walzer's argument lacks concrete options for state response but his concern for civilian lives is in line with my argument. In an article written in 2002, Walzer's argument for a state response to terrorism changed after the September 11th attacks in New York. Walzer claims that a metaphorical war on terror needs to be fought, but this metaphorical war on terror includes real war because of the conditions of the just war theory. Although Walzer's metaphorical war on terror includes actions that are not acts of war, such as police and diplomatic work, when framing them within just war theory and when

speaking of the actions as if they are part of a war, it can lead one to believe that these acts are actually part of a war or that they are tracking towards declaring war. There are positive aspects of just war theory, but these aspects need to be removed from the theory that moves towards war and reapplied to a theory which includes other actions a state can take as response. I then speak of Michael Ignatieff's claim that a state must not over or underreact when responding to a terrorist attack. Both will cause harm to citizens and a state must walk a fine line between these two in order to be successful in its proportional response. I believe this balance is achieved through the terrorism response scale.

I close chapter three with the terrorism response scale, which is a scale states ought to use when considering how to respond to a terrorist attack. The scale is divided into five levels. Each level is defined by the severity of the initial terrorist attack and indicates to the state what action it should take as a morally proportionate response. The factors I take into consideration in order to determine the different levels are death toll, damage done, fear caused, and strength of the terrorist group and the likelihood that an attack will happen again. Each step suggests a more severe response, beginning at step one with active defense at home and ending at step five with declaring war. To determine the numbers that should be placed on the scale, I use the Global Terrorism Database from the University of Maryland's National Consortium for the Study of Terrorism and Responses to Terrorism. Using this data, I determine the fatality rate and damage done of the majority of terrorist attacks, then place a death toll and damage number on each level. These numbers can and ought to be contested in light of further empirical research. However, I believe it is important to place them upon the scale here so that it will be shown what a proportionate response ought to look like. States must always carry out the

actions of each step; however, they are allowed to start at a certain level based upon the severity of the attack while very quickly accomplishing the actions of each previous level. Each level is based in the right to self-defense while still being a proportionate and moral attack, even when the attack becomes physically harmful. The goal of this scale is to lessen the deaths of human beings in times of terrorist attacks. Although a state cannot control when a terrorist attack will occur, it can control what actions it will take in response and these actions will either contribute to or lessen the death toll. A state's responsibility first and foremost is to protect its citizens. Proportionate and moral response to terrorist attacks, as determined in this scale, will help the state take actions which will do so. This scale is meant to be an intermediate step between an initial terrorist attack and a declaration of war.

I was motivated to create this scale because of the lack of contemporary literature which addresses moral and proportionate state response to terrorism. Because terrorism has evolved and become more and more a part of people's everyday lives, I believe states need to begin to analyze how their own actions are affecting their citizens and/or the citizens of the states in which terrorists reside. A state cannot foresee a terrorist attack and should not be held responsible for the actions brought upon it. However, the state should be responsible for the actions it takes in response. There needs to be research and consideration given to how to lessen the fatality rate of these attacks and the time immediately surrounding them. A state has the capabilities to protect its citizens and continue to protect them as it moves forward with responding to a terrorist attack, it just needs more options in terms of response it can carry out morally and in self-defense while still ensuring it is protecting its citizens to the best of its abilities.

I. Definition

Any discussion of terrorism requires a discussion of definitions. Since terrorism is so prevalent in the modern world, this definition must be useful for political purposes and consequences. It must reflect what terrorism looks like today and not only what it looked like in the past. The definition will be inclusive and will allow attacks on combatants and attacks in war to be examined and possibly be labeled as terrorist attacks.⁶ The definition must also convey the moral wrong of terrorism, which is that it causes harm and fear to people who do not otherwise deserve it. Although terrorist attacks can sometimes happen in war and against combatants, the definition of terrorism on its own must show how it is different from other types of political violence and what it is about this type of political violence that makes it so wrong. Having a moral and political understanding of terrorism is important because it allows one to identify the core wrong of terrorism which leads to an understanding of how to implement policy and carry out research and strategic counter attacks in order to possibly prevent future terrorist attacks. I present a definition that conveys all of these characteristics and defend why each characteristic is important to the definition of terrorism. My definition also shows how terrorism fits in with other types of political violence. Ultimately, my thesis concludes that terrorism has its own moral wrong but that terrorism can coincide with other kinds of political violence and this does not take away from the wrongness of terrorism in either a philosophical or a political

⁶ I am assuming that the terrorists are not residing legally in the victim state. Although this argument could work just as well for domestic terrorists, for the sake of this thesis it will be presumed that the terrorists are not domestic actors.

understanding. It is of great importance that terrorism be defined in a concise way that allows for moral and political understanding.

Defining terrorism is necessary because there are many different kinds of political violence that could be and ought to be labeled terrorism, and all of these require a moral response.⁷ A state should take into consideration the nature of the terrorist attack when considering its response because the degree of the response should be proportionate to the degree of terrorism. There is not a widely agreed upon consensus definition of terrorism because there are many different kinds of attacks that could be labeled terrorism and different conditions that one may attribute to terrorism that another person would not. The definition of terrorism defended here will be broad and inclusive. This definition will allow the examination of many attacks having different characteristics instead of limiting the scope to terrorist attacks that only have certain characteristics. Therefore, the varying degrees of terrorism can be shown and examined, leading to a more in-depth analysis of moral response and understanding of terrorism.

Understanding the moral wrong of terrorism is important because when terrorist attacks happen, we feel a “moral repugnance” as David Rodin says, and we must understand why we feel this way towards these acts in order to define them.⁸ The definition of terrorism should not be confined or saved as a title for select events. If a guerrilla group uses terrorism there should be no reason why they cannot also be labeled a terrorist group, or at the very least a group that uses terrorist tactics. If a state uses

⁷ Political violence will be defined here as any violence carried out that has a political goal and/or motivation.

⁸ David Rodin, “Terrorism without Intention,” *Ethics* 114, no. 4, *Symposium on Terrorism, War, and Justice* (2004): 758.

terrorism in wartime, it needs to be labeled terrorism and not only an act of war so that the moral wrongness of the act is understood. It is important to differentiate a terrorist attack from an act of war, to establish a definition for political consequences, and to understand that which is the base moral wrong of terrorism. Therefore, I identify a definition that realizes the moral wrong of terrorism, which is that it both causes harm and evokes fear, while also showing why the definition is important for political purposes. The definition of terrorism that will be used here is “violence committed against noncombatants or property in order to create fear and achieve political objectives.”

It is important that just the right amount of restrictiveness be used in defining terrorism in order for the word to have implications and consequences within the political realm, meaning the government should be able to apply the definition and the consequences should follow from perpetrating terrorism. The moral wrongness of terrorism is what makes it different from other forms of political violence and is what allows states to respond in a different way than they would respond to an act of war. In war, combatants and noncombatants expect a certain level of violence and disruption in their lives whereas they are not expecting this disruption when terrorism occurs. Therefore, the state can take different actions after a terrorist attack because it has been morally wronged in a different way. The unexpected disruption of people’s daily lives is part of the moral wrongness of terrorism. Terrorism interferes with and harms people who have a moral right not to be interfered with or harmed, and the state has an obligation to respond morally to these situations because it has an obligation to keep its citizens safe and allow them to live their lives without fear of being harmed or

terrorized.⁹ A state can respond to terrorism and go to war for the same motivation or reason, but it is important to differentiate terrorism because there is a certain moral wrongness to the act that the state is responding to and is fighting against that war does not have. A state can go to war to protect its citizens, to gain land, or to assert dominance in order to gain something from another country. But a state responds to terrorism in self-defense because their innocent civilians have been harmed and terrorized. The reason my definition is inclusive is because this new terrorism is unlike anything seen before.¹⁰ Also, some states and groups are resorting to terrorist tactics because it is less expensive than warfare and the most violent actor in a battle almost always wins. I do not want to discount an attack that should be labeled terrorism because it does not look like any attack seen before. Therefore, an inclusive definition is the best option when attempting to analyze modern attacks and define terrorism in the modern age. The components of this definition, violence committed against noncombatants or property in order to create fear and achieve political objectives, will be expanded upon and it will be shown why this is the most tenable definition.

a. Noncombatants versus Combatants

One of the biggest issues with defining terrorism is whether or not civilians have to be the target of the attack. Part of this debate is the definitions of the terms noncombatant and combatant, which are not largely agreed upon. This is the most pressing issue in defining terrorism because if the victims of terrorism cannot be

⁹ To be terrorized is to be scared while also being tormented.

¹⁰ Mark Juergensmeyer says new terrorism attacks are more random, unpredictable, appear pointless, seem exotic because they have a religious rhetoric, and are the “anti-order of the new world order of the twenty-first century.” See “Understanding the New Terrorism,” *Current History* 99, no. 636 (2000): 158.

identified, it is difficult to tell terrorism from guerrilla war or conventional war.¹¹

Terrorists are becoming harder to detect, they are recruiting more individuals, becoming stronger, utilizing new technologies, guerrillas are participating in terrorist attacks more and more, and conventional war is becoming a less popular action in which states participate. It does not make sense to limit the definitions of terrorism, guerrilla warfare, and war so substantially when in some situations it would be proper to label an act terrorism and an act of guerrilla warfare, or terrorism within war. There still must be a way to distinguish terrorism from other types of violence, and I argue that terrorism must be carried out against noncombatants but in certain cases it can also be carried out against combatants. An act of terrorism must meet every condition laid out in this definition but if it meets every condition except being carried out against noncombatants, it should be analyzed further in order to decide if it is terrorism. The condition of being a noncombatant is not always vital to the definition of terrorism because, as will be noted later in this section, there are some attacks that are carried out against combatants that should be labeled terrorism. The kinds of terrorism that are reflected in the real world are not always limited to noncombatants. If terrorism were to be limited to noncombatants, there would be attacks that would go unnoticed as terrorism solely because they are carried out against combatants. As long as an act meets every other criterion in this definition except being against noncombatants, it should be considered terrorism.

¹¹ Guerrilla war is when a group of armed civilians or paramilitaries use military tactics to fight against a conventional military. These tactics can include hit and run attacks and attrition, and usually aim to carry out a successful attack or win a war by being more resilient than the conventional military. Conventional war will be understood here as war that is defined and distinct, both sides wear uniforms, use conventional weapons and tactics, and the fighting stays between the two (or more) sides that are fighting.

A noncombatant can be any person who is not a member of a state's military or law enforcement, or a person who is a member of a military or law enforcement group who is not presently armed during the attack. For the sake of this argument, a noncombatant will be defined as a civilian or someone who is a member of a military who is not presently engaged in violence or is not a current threat to the enemy. A threat to the enemy can be a person who is armed or is presently participating in an activity that leads the other person to believe they will be harmed. The decision of who is a current threat to the enemy is decided by the militant who is being engaged.¹² This includes members of a military who are not armed, who are engaged in work as a militant that is not violent or does not present any threat to the enemy, or whose country is not currently in a war. The reason to include this group in the noncombatant category is because although they have signed up to be combatants, they have a moral right to not be harmed when they are not engaged in violent acts. If a member of the military is not a present threat to the enemy, they should not be harmed solely because they are a member of the military. It is true that militants give up their moral right to not be harmed, however if the militant is not an immediate threat, the enemy has no right to harm them. The same moral right is true when a militant is taken as a prisoner of war—the enemy is not supposed to harm the militant because they have been stripped of their weapons, are imprisoned, and are therefore harmless to the enemy. If a militant is not participating in an act that leads the enemy to believe they will be harmed in that moment or in the near future, the enemy

¹² This decision will be up to the combatants, as other life or death situations are left up to combatants in time of war. However, as is the same with these other situations, the combatant must have probable cause to consider the enemy a threat in that moment, otherwise it may not be self-defense and they will be charged with a crime.

has no moral right to harm them. It is when the military takes up arms, goes to war, or acts in a way that is violent or threatening to the enemy that their moral rights become different. In these situations, the military gives up their moral right not to be injured in order to fight and protect their country.

David Rodin agrees with the argument that military members who are not currently participating in threatening acts have the moral right to not be harmed, and uses the 2000 attack on the American Navy ship USS Cole in a Yemen port as an example. He says, “it is this basic moral judgment that ordinary people who are not engaged in any threatening combat operations should not be subject to attack,” and that although the people killed were “uniformed servicemen and therefore not civilians...they were noncombatants in the morally relevant sense.”¹³ Igor Primoratz has a more narrow sense of who is a morally permissible target and who is not, saying the “targeting of the innocent is the essential trait of terrorism,” and that someone loses this innocence by “attacking someone else, or by enlisting in the army in time of war, or by joining security services, or holding office in a regime or organization that is resisted by violence because of its unjust, or allegedly unjust, policies.”¹⁴ Although Primoratz argues that the innocent are “non-combatants, civilians,” he does say that someone loses their innocence if they enlist in the army *in time of war*.^{15,16} I believe this says something about combatants who are not in time of war and not harming someone else. By stating that people who enlist only in time of war are no longer innocent, it is inferred that people who enlist outside of

¹³ Rodin, “Terrorism without Intention,” 758.

¹⁴ Igor Primoratz, “What is Terrorism?” *Journal of Applied Philosophy* 7, no. 2 (1990): 133.

¹⁵ *Ibid.*, 135.

¹⁶ Emphasis added.

time of war are still innocent. This leads one to believe that it is not being a militant that makes one a combatant, it is participating in war. If the combatants are in war, they are posing an immediate threat to the enemy because they are armed and preparing for or already in battle. If they are not in war they might be fulfilling not immediately harmful military duties, such as cooking or mechanic work. Primoratz also states that a politician is only a target if the regime is being resisted or has unjust policies and that assassination is not terrorism because the politicians *must* have done something wrong in their policies or enforcement. Yet he also says that security services are not innocent in any way (maybe because they are armed on the job constantly). By putting a restriction on how politicians are targeted and attacked but allowing security services to always be a legitimate target, Primoratz' definition does not precisely define combatants from noncombatants and therefore does not help understand the moral wrong of terrorism. The components of his definition of who is innocent and who is not are too restrictive and have too many exceptions to be the most useful definition. Therefore, Primoratz' definition will not work unless it is concluded that he is stating that innocent people can be combatants who are not in a time of war. Rodin's inclusive definition that states anyone who is not currently engaged in violence or is not a threat to the enemy is a noncombatant is the most fruitful understanding of the term because these people have a moral right to not be harmed if they are not participating in violent actions. So my understanding of a noncombatant, that they can be militants who are not currently a threat to the enemy, stands.

Some definitions of terrorism and noncombatants are extremely narrow because they aim to differentiate terrorism from war and guerrilla warfare in a clear and decisive

manner.¹⁷ These three actions are different things and thus should have different definitions. However, I do not understand the reasoning behind not wanting to assign two or more labels to a single act nor do I believe substantial negative consequences would come from assigning multiple labels. The philosophical reason for differentiating terrorism from war and guerrilla war is to understand the moral wrong of terrorism and why this moral wrong is not always present in other forms of violence. But if there is a clear and exact definition of terrorism, it does no harm in the understanding of terrorism to place more than one label to the act. The concepts of terrorism and war do not become weakened or unclear if they overlap. The moral wrong of terrorism, that it causes fear and physical harm to those who do not otherwise deserve it, can also be prevalent in an attack that happens in wartime or an attack that a guerrilla group carries out.

However, there can be attacks carried out during wartime that have all the characteristics of a terrorist attack and encompass all the same wrongs as terrorist attacks, they just happen during official, declared wartime. For example, if two states are at war and state A attacks a group of civilians from state B in order to attempt to coerce state B into surrendering, this is not only a war crime but also an act of terrorism because it involves harm and evokes fear. It fulfills every condition of terrorism except that it is during war. The reason why attacks such as these need to be labeled terrorism even though they happen in war is because of the political consequences that come from them. If an attack is terrorism but it is not labeled as such, the group that carries it out evades

¹⁷ C.A.J. Coady, "Terrorism, Morality, and Supreme Emergency," *Ethics* 114, no. 4 *Symposium on Terrorism, War, and Justice* (2004): 772; Igor Primoratz, "What is Terrorism?" *Journal of Applied Philosophy* 7, no. 2 (1990): 129; Michael Walzer, *Thinking Politically* (New Haven: Yale University Press, 2007), 264.

being labeled terrorists and may avoid both legal and political consequences in the future. A state response to this group may not be as proportionate or strategic if the attack is not labeled terrorism, and the state's response may be confined to certain rules that hinder moral response if the label of terrorism has not been placed upon the attack. This is also shown in cases where the initial attack can be labeled terrorism and an act of war. If neither state declares or carries out war, it cannot be labeled an act of war. If the victim state says the attack was an act of war because they are going to declare war on the opposing state, the initial act can still be labeled terrorism and the declaration and carrying out of war has no consequence on that label.¹⁸

Even with this definition of noncombatant, there are still some attacks where combatants are targeted which should be labeled terrorism. Terrorism is primarily thought of as attacks against innocent civilians and it is morally wrong because these people had a right not to be killed and not to be terrorized or made afraid in their daily lives. If the attacks are against combatants, it should not be terrorism because they have consented to be combatants. But, as stated before, terrorist acts and acts of war are rapidly becoming similar and crossing over the boundaries of one another. Walter Laqueur says that in the modern world, terrorists attack "the military, the police, and the civilian population," and stating that terrorists only attack civilians "may not be very helpful in the real world."¹⁹ The definition of terrorism must reflect terrorism in the world today and not just what terrorism was in the past, and it also must reflect terrorism's

¹⁸ This is, of course, if the first attack actually is a terrorist attack and meets all of the conditions. If the attack is solely an act of war, it can and ought to be labeled as such.

¹⁹ Walter Laqueur, *No End to War: Terrorism in the Twenty-First Century* (New York: Continuum, 2003), 233.

political purpose. If the fact that terrorists today are attacking combatants were to be left out of the definition, it would not be an accurate reflection of the terrorism with which the world is actually dealing. It is for this reason that some attacks should be called terrorism even if they are carried out against combatants. This argument is not trying to justify or not to justify terrorism—it is only trying to define it in a way that exposes its base moral wrong and allows it to be used in politics. However, it is important to differentiate terrorism from conventional war and guerrilla war so that the core wrong of terrorism can be understood, which helps show why combatants can sometimes be the target of terrorism.

Part of what makes terrorism morally wrong is that it uses the primary group, the direct target of the attacks, to coerce the secondary group, the group that is not the direct target, to do something they would not have done otherwise. This is wrong because people or the state should not be coerced through violence or fear to act a certain way, they should have the freedom to choose things on their own accord based on the intrinsic value of human autonomy. However, the primary group need not be noncombatants in all cases. Part of terrorism's base moral wrong is creating fear, and the fact that the primary group is being used to coerce the secondary group into doing something they would not have done otherwise because of this fear, does not disprove that combatants can be the primary subject of these attacks too. Michael Walzer is adamant that terrorism must be an attack on innocent people and if there is an attack carried out on people who are not civilians, it cannot be labeled terrorism. Walzer defines terrorism as, "the random killing

of innocent people, in the hope of creating pervasive fear.”²⁰ While I agree that the attack must be carried out with the hope of creating fear, I do not agree that the targeted victims always have to be innocent civilians. If the intent of the attack is to cause fear to achieve a political end, meaning the end goal is political, religious, or social, a terrorist group might intentionally target combatants to garner attention from the state, and this could be a successful move. By targeting the state’s military, the group can show that they have the strength to carry out attacks against the strongest force the country has, therefore making the terrorist group a threat. If a terrorist group bombed a military base, it is highly believable that it would inflict fear upon the state, its combatants, its people, and it may coerce them to do something they would not have done otherwise. Thus, the attack has all the components of a terrorist attack and the targets need not have been only civilians.

Igor Primoratz partially agrees, arguing, “the person or persons who constitute the primary, but indirect, target of the terrorist, may or may not be innocent themselves; what is essential is that those who are made his secondary, but direct target, are.”²¹ It is important to note that his definition of primary and secondary targets are the opposite of the definitions I use. Though he never explicitly says that the primary targets in his definition can include combatants, his definition of innocence as stated before (noncombatants, civilians) does show that combatants fall under his condition of primary targets—those who do not have to be innocent. The secondary target, those being directly targeted, must be innocent. He says when the “aim is to force someone to do something they would otherwise not do, when this is the achieved by intimidation, and when

²⁰ Michael Walzer, *Thinking Politically* (New Haven: Yale University Press, 2007), 264.

²¹ Primoratz, “What is Terrorism?” 131.

intimidation is effected by using violence against innocent people,” this is terrorism.²² I agree with his statement until he arrives at the conclusion that it must be innocent people. As argued before, these tactics can be used against combatants and to apply this definition to combatants does not take any moral significance away from the definition of terrorism. Terrorist tactics are employed because they are usually more violent and they are not used in conventional wartime, meaning these tactics could possibly help weaken the enemy and help win the war. If an actor in war is using terrorist tactics, it weakens the definition and the justification of conventional war, and it is for this reason that the label of terrorism should be placed upon it. If one steps outside the bounds of wartime rules and uses terrorist attacks, one should be charged with a war crime and labeled a terrorist. And these attacks are not limited to noncombatants only. There are rules for combatants in wartime and, although one of these rules is that they have given up their moral right to not be harmed, they also do not morally deserve to be the victims of terrorist tactics. States declare war so they can engage in a rule-bound battle in order to achieve something, and if this was not the case then there would be no war crimes. Therefore, if an attack meets all the qualifications of a terrorist attack but it is against combatants, it should be evaluated in order to determine if it is a terrorist attack. It should not be discounted solely because it was against combatants.

Virginia Held argues that if terrorist attacks are defined by attacking civilians, “a great many actions that are standardly *not* called terrorism would have to be considered to be,” and that a lot of definitions of terrorism try to justify that “what *they* do is terrorism

²² *Ibid.*, 131.

and is *unjustified*, whereas what *we* and our friends do is not terrorism but is a justified response to it.”²³ These statements embody the problem that most contemporary definitions have, which is to be exclusive and limit the characteristics of terrorism to the point where it is so narrow that it omits attacks which should be labeled terrorism because of a fear of labeling a certain attack terrorism or a certain country terrorists. If one were to declare that only attacks on civilians count the atomic bombing of Japan would be considered terrorism, yet the attack is not labeled this way because it is considered an act intended to end war. And if one limits victims to civilians, one will be excluding certain attacks but will have to then include others that they did not include before. This is why causing fear to the secondary group, the group that is not the direct target of the attack, is an important and helpful factor when defining terrorism. This secondary group being part of the definition helps differentiate terrorism from other forms of political violence whether or not the targets are combatants by showing how the wrongness of the attack comes from the harm and terror bestowed upon the secondary group and not on the primary group. Whether or not one limits this characteristic of the definition to civilians (which I do not), it still counts as terrorism because of the fear caused to the secondary group.

There is a reluctance to label people “terrorists” or to use the word “terrorism,” as Held observes in her second statement. This could be caused by a concern of offending the terrorist or a concern of what consequences entail if the state labels an attack terrorism. Walter Laqueur says other countries do not want to “offend terrorists by calling

²³ Virginia Held, “Terrorism and War,” *The Journal of Ethics* 8, no. 1, Terrorism (2004): 65.

them terrorists,” and “the term “guerrilla” has had a long life partly because terrorists prefer the label, for its more positive connotations.”²⁴ To withhold the label because of fear of legal consequences or fear of offending someone is only hindering the path to proper state response and protection of citizens. If a terrorist attack is not labeled with the proper moral wrongness that constitutes it, the state cannot respond in a morally just and proportionate way nor can they truly assess the threat to its citizens. One cannot be afraid to label what is terrorism with that term and one must not worry that the term is being overused, for terrorist attacks are happening at such rapid speed that it would be difficult to improperly label too many things terrorism.

The fact that terrorist attacks use primary and secondary actors show not only that combatants may sometimes be the victims of terrorist attacks, it also proves one of the wrongs of terrorism (harm to people who do not otherwise deserve it) and allows this definition of terrorism to be used for political purposes. Using a definition that focuses primarily on noncombatants but allows for combatants to sometimes be victims—if there is a terrorist attack that happens during wartime or if the combatants are targeted as the primary group in order to coerce a secondary group—makes this definition of terrorism one that can be used to charge terrorists with crimes in various cases. Eric Reitan agrees, saying “two violent acts, one targeting civilians and the other targeting the military, may be sufficiently similar that they should be treated under the same policy guidelines.”²⁵

The definition should be counted as similar under policy guidelines and also under moral

²⁴ Walter Laqueur, “Postmodern Terrorism,” *Foreign Affairs* 75, no. 5 (1996): 26.

²⁵ Eric Reitan, “Defining Terrorism for Public Policy Purposes: The Group-Target Definition,” *Journal of Moral Philosophy* 7, no. 2 (2010): 261.

guidelines, since the same effect and outcome is happening for both violent attacks. The terrorization of the secondary group, the group that is not directly targeted in the attacks but is the target of coercion through fear, is what makes terrorism different from other forms of political violence, is one of the base moral wrongs of the act, and is encompassing enough that it allows for political use.

b. Intention

Another wrong of terrorism, and what makes it different from other forms of political violence, is that the terrorist has the *intent* to create fear with their actions. If there is no intent to create fear in a secondary group of people, the act could be considered political violence or an act of war but not terrorism. A terrorist has an intention to use coercion and fear in order to make a person or a group of people do something they otherwise would not have done, such as policy change or releasing certain people from jail or captivity. The ultimate goal for the terrorist is a political objective and intent to cause fear in order to achieve, or hope to achieve, this goal is what makes terrorism morally wrong. Some people believe this should not be one of the main wrongs of terrorism either because the act is still violent and deadly whether or not the intent was to cause terror, gauging intention and fear are difficult if not impossible to do, or because the terrorist's intention was not to create fear but to achieve some other goal. However, in most cases the terrorist wants to cause fear in order to coerce a secondary group or they will at least have some knowledge that their attack will cause fear to the secondary group. This knowledge or assumption of fear being caused in order to achieve the terrorist's goal should count as intention, and it will be shown here that this intention is a crucial part of the definition of terrorism.

Eric Reitan uses the Oklahoma City bombing in 1995 as an example of intention not being important, stating Timothy McVeigh's intention "was not to inspire fear in a population but to *punish* the federal government for infringing on civil liberties."²⁶ Reitan says, regardless of finding out these motives, we still consider this attack to be terrorism so the intent to cause fear cannot be part of the definition. He also uses the September 11th attacks as an example. Would those not be considered terrorist attacks if the terrorist's motives were any different? Of course it is still considered a terrorist attack—they were violent attacks that caused terror to a large, secondary population. Reitan's argument that intention should not matter to the definition of terrorism is difficult to refute. However, I believe my claim that intent is part of the definition of terrorism still stands. It is hard to imagine someone flying two planes into two extremely populated, tall buildings in one of the most populated cities in the country and not have any intent to cause fear. If anything, one can say these terrorists had knowledge that they would cause fear. In regard to the Oklahoma City bombing, it is again hard to imagine McVeigh not intending, or even not knowing, that civilians and survivors of the attack would experience fear. Even if the goal is to punish the government, the act still terrorized a secondary group in order to coerce them to do something they would not have done otherwise, and therefore it counts as terrorism.

Joshua Glasgow believes that intention is an important characteristic of terrorism and uses an example that deals with different intentions behind bombings. He asks if an attack is morally worse if a one-time bomber who has misread his map accidentally

²⁶ Ibid., 261.

bombs a schoolhouse, or if a terrorist regularly bombs schoolhouses “just in order to see panic on his enemies’ faces.”²⁷ Glasgow thinks these two actions do not register as the same wrong and that there is a different kind of wrong in the terrorist’s attack because he is carrying out these acts with the intent to see people fearful and suffering. The negligent bomber did something wrong, but it is a different kind of wrong. The intention was not to bomb the schoolhouse or to harm children, even though the consequences of his negligence caused this to happen. If he shows repentance or if he can prove that his act was an accident, a feeling of wrongness goes away and he may not be punished morally although he should be punished legally. Whereas with the terrorist, the feeling towards his actions and his intentions is not the same as the negligent bomber. The terrorist should be punished morally and legally, as he was driven by the intent to cause harm and fear. Glasgow concludes by saying, “in addition to wrongfully killing, maiming, and destroying, the terrorist is wrong for intentionally sowing the seeds of fear. It is a gripping, life-altering weapon—one that can ramify over generations. And it is what makes terrorism uniquely awful.”²⁸

Willem Schinkel disagrees that intentionality is the sole moral wrong of terrorism, saying, “when what ‘terrorism’ is, is in the end defined in terms of terrorists’ intentions, a reduction to intentionality takes place that is part of a simplification and reification of ‘terrorism’.”²⁹ I agree with his sentiments that “terrorism” should not be simplified because there are many characteristics to the act and simplifying it risks taking away the

²⁷ Joshua Glasgow, “A Straightforward Analysis of Terrorism,” *Public Affairs Quarterly* 25, no. 3 (2011): 186.

²⁸ *Ibid.*, 193.

²⁹ Willem Schinkel, “On the Concept of Terrorism,” *Contemporary Political Theory* 8, no. 2 (2009): 186.

moral wrongness of terrorizing people. I also agree that there are more factors to it than only intentionality, which is why I argue that harm and fear to a secondary group must be part of the definition as well. However, Schinkel does not dismiss that intention is part of terrorism, only that there is cause for concern in reducing the term to the one characteristic of intentionality. Part of his definition states that terrorism is “a form of violence deployed against arbitrary or symbolic targets to induce fear in a wider audience.”³⁰ Intentionality is at least one of the defining factors of terrorism in his view, which my definition agrees with as well. Although terrorists may claim their intent was not to cause fear, in almost all cases of terrorism there is at least some knowledge of the fear that will be caused because of the attack. And the terrorist always has a bigger goal in mind which they are trying to achieve through their attack, therefore they are trying to coerce a group of people to make a change through the impact of their attack. The coercion of this group of people is morally wrong because it takes away their freedom to make their own decisions in regard to whatever it is the terrorist is making them do. For example, if the terrorist group is coercing the group to make a change in policy, the group’s freedom to make that decision is taken away and they are forced to make another decision which is against their interest. Because the terrorist’s actions come from some form of intention, this characteristic important to the definition of terrorism.

c. Must Death be a Factor?

The argument then must be made for whether or not the victims of the attack, both combatants and civilians, must die in the attack. This does not have to be a condition for

³⁰ Ibid., 184.

the attack to be labeled terrorism. I would argue that people do not even have to be seriously injured for the attack to be labeled terrorism. What sets terrorism apart from other forms of political violence is that the driving force is to create terror in order to achieve some political aim. If an attack is carried out that does not injure or kill anyone but it causes some sort of harm, either physical or psychological, to the victims and there is a notable sense of fear, the terrorist group has achieved *something* that has negatively impacted these people's lives. This harm can come from carrying out an attack on property instead of people, where people may only be harmed psychologically in the attack. In this case, the primary target is property and the secondary target are people. However, some philosophers argue that if terrorist attacks are carried out on property, there must be a factor that involves human beings. Jenny Teichman argues that attacks on property can be terrorism, but only if it is "a precursor of a different kind of action, i.e. part of a campaign which includes physically harming human beings."³¹ Primoratz states that if a terrorist stops killing people and starts destroying their town's crops, which are their main food source, this would be terrorism because "the destruction of property would threaten people's lives."³²

Both of these arguments impose physical harm on the people at some point, and I do not fully agree with them because I believe an attack can be terrorism if it is carried out on property without imposing physical harm of any kind on people. If the acts are a precursor to a physical attack on people, as Teichman argues, does it really matter whether the property attack is labeled terrorism? It seems that the property attack may not

³¹ Jenny Teichman, "How to Define Terrorism," *Philosophy* 64, no. 250 (1989): 512.

³² Primoratz, "What is Terrorism?" 133.

be labeled terrorism initially but later, after the attack on humans takes place, it would have to be changed to reflect the circumstances. There is importance in labeling a terrorist attack properly soon after it happens so the state can respond in the proper manner. If an attack is labeled terrorism only after attacks on humans take place, it seems as though the previous attack on property was not terrorism but merely a predecessor of terrorism. Therefore, Teichman's definition is not useful. Primoratz' argument is the most convincing because damaging something so vital to human life undeniably would evoke fear. But despite this, causing severe damage to an empty government building or to a popular park (empty at the time) would cause fear in people as the terrorists are striking into the core of the community and damaging places people visit in their daily lives and expect to feel safe. It demonstrates the terrorist's knowledge of places the community values most and their carelessness towards these important places. Consequently, it holds that property can be the target of terrorist attacks and no human beings have to be killed or even harmed in order for it to be labeled terrorism.

d. Experiencing a Terrorist Attack

Another term that needs to be defined before moving further is what "experiencing" a terrorist attack means. This will be defined simply as a state who was the victim of a terrorist attack, where the goal of the attack was to gain something from the state as a polity—meaning the political goal was something the state has or can give—whether or not the terrorist group itself is a polity. It does not matter who was attacked within the state as long as the terrorist group's intentions were to gain the attention of state officials in order to affect political objectives. These definitions will help a state assess the terrorist attack and respond in a moral way.

In order to understand terrorism in the modern world and use the definition for political purposes, it is important to understand the definition of terrorism and what makes it morally wrong. Here it has been shown that the base moral wrong of terrorism is that it harms people and it causes fear to them that they would not have otherwise experienced and are not usually subject to experience. It has also been proven that terrorism can be carried out against combatants and property, and that it must not only be an attack that kills noncombatants. Terrorism in the modern day is unlike terrorism in the past. Technology is making it easier for terrorists to carry out larger and more destructive attacks, it is making it easier for terrorists to broadcast themselves and their goals to the world and possibly obtain more recruits, and it is evolving in regard to who the victims of the attacks are and in what situations terrorism is capable of being carried out. The lines between terrorism and other forms of political violence are becoming harder to discern. However, stating that terrorism is starting to look like other forms of violence and considering this as part of its modern definition does not take away from the moral or political wrongness of terrorism. If anything, understanding all aspects of modern terrorism, including the fact that it is beginning to look like other forms of violence, helps one recognize terrorism when it has happened and does not hinder one's ability to label an act as terrorism because they are confined to an exclusive definition. Having this knowledge of the definition of terrorism will help further terrorism studies, both in policy and in academia, which in turn will help the understanding of terrorists, their motives, and their attacks. The definition of terrorism argued here, "violence committed against noncombatants or property in order to create fear and achieve political purposes," is the

most tenable definition because it is inclusive and it encompasses all aspects of terrorism in the modern age.

II. Morally Appropriate Action

In arguing why states ought to respond in moral and proportionate ways to terrorist attacks, I am taking a welfarist approach that is based in self-defense. The ends of the response must be to keep citizens safe and maximize their welfare, and the means must always be taken in self-defense. The welfare of citizens is of the utmost importance and therefore every morally permissible action will involve protecting human wellbeing and their right to not live their lives in fear. There are many different kinds of terrorist attacks that can take place and there are many different ways to respond in order to achieve these ends. However, these must come from self-defense in order to be morally justified. Responses must also be proportionate because of the moral goodness of fairness and the intention in which being fair is based. If a state were to respond to a small terrorist attack with a very large attack, the intention behind the response attack would not be protecting citizens or even weakening the enemy enough that they could not carry out another attack in the near future. Because the response attack would be so disproportionate, the intention would have to be based in revenge and this would make the attack immoral. Another reason why proportionality and fairness are so morally important is because of the international standard of morality that binds countries. If a state were to respond with an attack that is disproportionate and hence unfair, it would be tarnishing its moral standing amongst other states. This impacts the support the state may get from other states, the chance to form allies, and it generally makes the state look bad amongst other states because it cannot uphold the universal moral standard everyone has agreed to. This moral standing may not be as important to individual leaders and this may

be the reason they end up not following this moral code of fairness, but it is important to leaders who want to maintain a moral standing within a large range of states.

Scholars whose work deals with terrorism fundamentally agree that terrorism is a horrible thing and responding with war is justified because it is an action taken in self-defense that can be labeled “fair”—and I do not disagree. However, just because war can be a justified response does not mean that it is the morally appropriate one to take in all situations. In some cases, declaring war would harm citizens of the country that is the victim of the terrorist attack because it opens a legal pathway for the terrorists to respond. Declaring war also requires sending combatants into battle with the knowledge that some will die and civilian lives of both the victim and the terrorist state are put in danger. Therefore, the state should consider all of its options of moral response, assess the degree of the terrorist attack, and remember that its obligation to its citizens is of the utmost moral importance. The obligation that the state has is to respond to a terrorist attack in a morally proportionate way because of the obligation it has to protect its citizens and allow them to live their lives without fear. The state is not responding to a terrorist attack because they are retaliating, they are responding solely because their citizen’s lives were put in danger and might be put in danger in the future as well. What will be argued here is that there is a lack of assessment in regard to morally appropriate state response other than war and this can lead the state to respond with war when another option would have been more proportionate, and thus more moral.

a. Proportionality and Just War Theory

Carrying out a proportionate attack in response to terrorism means that the amount of good that will come from the attack must be more than the evil that will come from it.

There is moral value in proportionality, especially in regard to violent attacks and death, because of fairness which leads us to believe that responses that are not proportionate are morally wrong. If the amount of good that comes from the response attack is less than the amount of evil that comes from it, the attack is not the most morally appropriate action to take. If the amount of evil that comes from the attack is more than the amount of good, the attack is more evil than good and is not proportionately or morally fair, and therefore is not good and should not be taken. This means there is a high probability if not an inevitability that civilians will die. When considering its response, the state should always keep the protection of its civilians in the forefront of its thoughts and actions. When a state responds to a terrorist attack, though proportionality of the attack and the protection of civilians are not always compatible, the state should respond in a proportionate way that has the least probability of civilians dying or allows the least amount of civilians to die. A state should not immediately declare war because, considering the degree of the terrorist attack, there could be options that are more morally appropriate and will cause the least harm to civilians from its own state.

When speaking of moral response to terrorism it is common to use the just war theory. The conditions of just war theory allow for justified retaliation that includes violence within a relatively constrained moral theory. In “Just War Doctrine and the Military Response to Terrorism,” Joseph Boyle argues, from a standpoint of traditional just war theory, that defending against a terrorist attack carried out by a group who is not a polity is a just cause and that “within significant constraints sovereign political authorities can have authority to undertake military actions for the sake of this just cause,

notwithstanding the nature of organization of the terrorists.”³³ The constraints of traditional just war theory he is speaking of are just cause, proper authority, and right intention. Boyle is working within the framework of a terrorist attack by a group that is not a polity and, even though my definition does not include the nature of the terrorist group because a state can also commit terrorism and acts of terrorism carried out by all different kinds of groups need to be examined, his argument stands just the same to use here. The definition of just cause for Boyle is a defensive one. This definition moves away from Aquinas’s punitive definition in the original understanding of just war theory, which states a just war is usually described as “one that avenges wrongs, that is, when a nation or state has to be punished either for refusing to make amends for outrages done by its subjects or to restore what has been seized injuriously.”³⁴ Boyle understands just cause in the contemporary sense, which has “moved towards a more defensive conception,” similar to the “international tendency to treat aggression, even if justified for punitive reasons, as completely out of line.”³⁵ Abiding by the punitive definition does not allow space for the state to defend its citizens and restricts waging war with proper authority and just cause because there may be a wrong intention.³⁶

Although my own argument is not based in this theory, I do believe that if a state is going to respond with war it must do so within the constraints of certain characteristics of just war theory. These characteristics are proportionality, just cause, and right

³³ Joseph Boyle, “Just War Doctrine and the Military Response to Terrorism,” *The Journal of Political Philosophy* 11, no. 2 (2003): 153.

³⁴ *Ibid.*, 160.

³⁵ *Ibid.*, 161.

³⁶ *Ibid.*, 163.

intention. And although the responses to terrorism argued here will not always fit the just war theory (because the responses need not always be wartime acts), it is a theory to filter violent actions through to ensure morality is always considered by the state actors and that is why it is useful to think about when considering moral response to terrorism. However, the leap to declaring war, albeit a justified war, is not always the morally right decision.

b. Just Cause

My argument here is very similar to Boyle's. If a state is to declare war, it must have a just cause. And according to Boyle's definition, any terrorist attack can require the response of war—under just cause, right intention, and proper authority—because it is the state's duty to protect its citizens. However, the state's declaration of war may not be justified in regard to its duty to its citizens if the attack is not large enough to warrant risking more lives on each side. Boyle does not give a definition of what it means to protect citizens or whether the state acting on its just cause to declare war is the morally appropriate option. Even when thinking only theoretically, there should be a reason for declaring war beyond it being a just cause because one must factor in the fact that lives will be at stake and also remember that self-defense does not always have to be violent. When just war theory is used as a response to terrorism, there is no examination of just cause in proportion to the scale of the attack nor is there a consideration of overriding a state's just cause because of its obligation to its citizens. This is where just war theory as a response to terrorism falls short because it does not consider the kind of attack that is prompting the response.

There are terrorist attacks that are so large scale, horrific, and driven by evil that just cause may be part of a proper response and declaring war might be the morally right action to take, but a terrorist attack on a smaller scale requires a less severe response in order for it to be proportionate. As stated before, proportionality is important because there is a moral fairness that ought to be upheld amongst countries. If a state were to respond to a terrorist attack with a disproportionate response, the response would no longer be considered moral because it was carried out with the intention of harming the enemy state possibly out of revenge. There is also a standard of morality amongst countries that would not be upheld by the victim state if it were to respond with a disproportionate attack. Even though a state may have a just cause to declare war on the terrorist group or country because the initial attack was severe enough for the state to retaliate in self-defense, there are situations where it should not act on this just cause and use other moral actions in response to the attack. For example, there was a terrorist attack in Somalia in 2011 by Al-Shabaab, al-Qaeda's affiliate group in Somalia, that killed 15 (7 policemen and 8 civilians) and injured 35 (whether these 35 included only civilians is not made clear in the information given).³⁷ This would not require a declaration of war on the terrorist group or the country in which the group resides because the death toll and damage that would result from declaring war would be significantly higher than that of the initial attack.³⁸ This would mean the state is responding knowing, and possibly hoping, that it will do more damage than was done unto it, which means the attack would

³⁷ Incident Summary for GTD ID 201102210001. Last updated June 2015.
<http://www.start.umd.edu/gtd/search/IncidentSummary.aspx?gtdid=201102210001>.

³⁸ Because Al Shabaab is al Qaeda's affiliate group in Somalia, this isn't technically an international attack. However, as an affiliate to a large group in another country under which it is controlled, this is a justifiable example.

be carried out in vengeance, and is thus not a just cause nor is it proportionate. Although the Al-Shabaab attack was small and it could be argued that a state would never declare war following that attack (Somalia did not), according to Boyle's definition of just cause, if a state has been the victim of aggression it has a just cause for declaring war. What good would declaring war because of an attack such as this do for the state?

The contemporary reading of the just cause condition in just war theory allows for the state to respond in defense to any attacks that harm its citizens, and I agree with this claim. What I disagree with is that when using just war theory as a response to terrorism the implication is that one is looking to wage war, and the contemporary definition of just cause allows more room for a state to conclude that it has a just cause and should act in self-defense by declaring war. Boyle says, "if there is a just cause, and that is the reason for making war—not a pretext—then there will be war aims, concrete goals, namely, a just state of affairs which can be produced by the military action, and which satisfies the just cause."³⁹ This enclosed argument from just war theory shows that there is no space for other forms of response, some of which may be more proportionate and thus more morally appropriate. If a state has a just cause, it has a direct line to declaring war. States hold large amounts of power regarding just cause. They have the authority to say that they have a just cause to retaliate to a small scale attack upon them because it caused harm to their citizens and they are legally and morally allowed to respond in self-defense. However, states ought to consider other moral responses. Just cause is a crucial condition to waging war and also to responding to terrorism because these are violent acts that

³⁹ Boyle, "Just War Doctrine and the Military Response to Terrorism," 164.

allow self-defense, and this self-defense must be justified. However, if the state does not have access to other moral options besides declaring war or if it is not obligated to respond in a proportionate way, there could be instances where war is taken as a response to a small scale attack that did not have a large death toll or did not cause a lot of damage and this is neither moral nor proportionate. While I agree that violent self-defense is a right, it is not always the morally appropriate answer when dealing with a state's obligation to the safety of its citizens. There are other means, some of them violent but some not, that would be safer and more effective.

A state should also consider other means of moral response because declaring war allows the terrorist group or country to respond, legally and morally, with violence. Boyle's argument is grounded in defense and in the state's duty to protect its citizens. He claims, "defending subjects from injuries inflicted by outsiders plainly is a responsibility of those entrusted with the care of a polity's common good. That defensive action is for the sake of that common good."⁴⁰ Yet, in some cases declaring war would put more citizens in danger than if the state had not entered into a war. Boyle is working within the realms of just war theory so the intention is to work towards entering into a justified war, but this is why the theory can be precarious when responding to terrorism or other situations in which states believe they need or want to respond with war. When terrorists attack, they are doing so outside of jurisdiction and outside the bounds of moral physical action because they are attacking randomly and before declaring war and this leaves the victims unable to properly defend themselves. This leaves the victim state, no matter how

⁴⁰ Ibid., 162.

weakened it may be from the attack, with all of the power. The victim state then has a legal and moral right to defend itself. If the state then immediately declares war, it loses this power because there are rules of war that pertain to both sides which state they can defend themselves. The terrorists are then legally allowed to retaliate against the state and protect themselves in self-defense. If the state is truly considering going to war, it should weigh the benefits and consequences of losing its power and opening the opportunity for violence and self-defense to both sides. The terrorists who carried out the attack are completely morally and legally wrong and the state has the chance to justify its physical response morally and legally. It is for this reason that it is important for the state to stay within the realm of moral justification, for if it steps outside of these bounds it will no longer have this power. This is why a state, even if it morally has a just cause, should think before acting on it.

Proportionality and just cause are important to state response to terrorism because there is moral rightness in fairness, and there needs to be a fairness when speaking about and acting on just cause. If a state is to act upon its just cause, the response attack must be proportionate because if it is not the state may be acting out of revenge or to inflict more damage upon the terrorist group than was inflicted upon the state initially, and thus the state is not acting upon a just cause. Just cause is based in self-defense and if a state is a victim of a terrorist attack it has a moral right to defend itself. But this defense must be proportionate if it is to be based in a just cause, and a just cause is morally important when a state is considering moral response to a terrorist attack.

c. Right Intention

Another condition of just war theory that Boyle analyzes for his argument for military response to terrorism, but is also important for all levels of moral response, is right intention. In order for a response to terrorism to be morally justified, the state actor must have the right intention. Right intention stems from a place of self-defense and the ability and obligation to protect the state, its people, its land, and its resources. The condition of right intention also proves why a state must carry out a proportionate response to the attack. In some cases, if the state were to respond to terrorism that was not large scale or did not inflict that much damage with a declaration of war, that could not come from a right intention because the state is attempting to inflict harm and damage upon the terrorists instead of the intent being in self-defense. Proportionality is crucial to right intention because if the state hopes to inflict more damage upon the terrorists than the terrorists did to it, the intention is violence and destruction and not self-defense.⁴¹ Even if a state is attacking in response in order to hinder the terrorist group or country so that they cannot attack the state again, the state must inflict only the proportionate amount of violence, otherwise it is hoping only to punish the terrorist group and this is not an attack with the right intention.⁴² In order for a state to morally respond to terrorism, it must have the right intention and this includes taking proportionality into consideration.

⁴¹ Although my use of proportionality in this argument is not intentionally pulled from just war theory, it does mean the same thing and is aiming at the same cause. I hope to create a definition and understanding of proportionality that is not tied to just war theory.

⁴² The violent attacks must be proportionate but they can come in many different forms—this will be discussed later.

The inclination of the state to immediately declare war most likely comes from an emotional state which can impact intention. The emotion can range across a wide spectrum, though. A state most likely will be furious, upset, distressed, or revengeful when seeing the condition of its people and its state after a terrorist attack, and it is not to be blamed for having this emotional response because a terrorist attack is a violent, unpredictable, and unexpected attack. However, the state actors should look past these emotions and thoughts and clearly evaluate the proper response in order for their acts to have the right intention, especially if they are acting upon their right to self-defense. The basis of right intention must be self-defense and preventative measures, as this is the proper moral motivation for responding to terrorism. Although Boyle is justifying responding with war, these motivations are also true of any moral response to a terrorist attack. Boyle also makes a valid point when he states that it is important to consider “whose intentions are being evaluated,” because “motives of revenge and hatred which are often in the hearts of those who fight morally compromise their own involvement in war.”⁴³ If the state actors who are part of the response (whether this is a smaller response before war or if it is the declaration of war) have an improper intent, there is a chance that they will compromise their involvement and this gives the state dirty hands. Boyle believes “war waged without public authority is not permissible...only the authority of one who has the final say for the welfare of a political community may rightly take it to war.”⁴⁴ He also says that proper authority “belongs to leaders of a polity, not to leaders of

⁴³ Boyle, “Just War Doctrine and the Military Response to Terrorism,” 164.

⁴⁴ *Ibid.*, 159.

transnational organizations.”⁴⁵ I do not want to get too far into proper authority as my argument is not based in this, but it is the responsibility of the state to have a close involvement with the people who are going to be part of the response to make sure they all have the proper intent and know that they are acting in self-defense. If they do not, this can lead to other problems such as the legitimate military force not following orders once their mission is underway, or it can lead to the beginning of a racist or nationalist atmosphere within the victim state. The unfortunate aftermath of attacks by extremist terrorist groups, such as al Qaeda, the Salafi Jihadist group who carried out the September 11th attacks in America, or the Black September Organization, the Palestinian group who carried out the 1972 Munich massacre against eleven Israeli athletes, is that it creates a false enemy that is based in race or nationality. This happens because the right intention for the proportionate and moral response to the terrorist attack was not assessed beforehand. Boyle addresses individual intent by saying that it cannot ruin a justified war, and the intention in just war theory is “that of the social act of undertaking war.”⁴⁶ This is the true sense of right intention in regard to the theory but, as shown above, it lacks a further assessment when being applied to terrorism and definitely when responding to terrorism with war.

d. Last Resort

Another issue with Boyle’s argument, and the main issue with current moral responses to terrorist attacks, is that he says a state can only use military force as a response to terrorism if it is the last resort. This is another important condition of just war

⁴⁵ Ibid., 160.

⁴⁶ Ibid., 164.

theory, but Boyle does not state what other actions should be taken before the last resort.

He says:

Such things as the destruction of the command and control system of a terrorist group by focused bombing, or capture...are perhaps not by themselves sufficient to define the war aims of a defense against terrorism, but some list of such things considered in the light of what military action can do to defend against terrorism without itself turning to punishment, vengeance or terror certainly seems to specify the kind of war aim that can rightly be sought.⁴⁷

The war aim Boyle is speaking of here is “reasonable military defense against terrorist action.”⁴⁸ If last resort is an important condition in Boyle’s work, and is a large part of other scholar’s work as well as just war theory, why is there no elaboration on what the other morally justified responses are? It is as though a state ought to automatically and self-evidently know what the other options are when none are presented to it. This also gives states an excuse to declare last resort when they have not exhausted all other options. The goal here is not to discredit this condition of the just war theory, as it is extremely important, but to argue that there ought to be an examination of the options for moral response leading up to last resort that seem to be believed to be an inherent factor in a state’s international affairs. Boyle’s intention that war should be the last resort is right, but without a comprehensive idea of what should come before last resort, it is too easy for the state to justify a declaration of war in response to a terrorist attack under these conditions. This is why a state should have other options besides declaring war, and why a scale showing the proportionality of each option of response is important.

⁴⁷ Ibid., 169.

⁴⁸ Ibid., 168.

Just war theory is an acceptable moral theory to examine when considering proportionate and moral response to terrorism. However, the theory has some imperfections, and this is shown when examining Boyle's argument. If a state has a just cause it has reason to take action, but this just cause should not always be acted upon and, when it is, it needs to be carried out proportionately. If the response is not carried out proportionately, the state may not be fulfilling the condition of right intention because its intent may be to act in vengeance or spite and not in self-defense, which is the intention that states need to consider when responding to terrorism. Finally, last resort is such an ambiguous condition of just war theory and one that is not fully described within the theory. At what point does a state reach their last resort? Does this condition differ for states with different economic situations? An issue with last resort and with just war theory is that it allows the state a direct path to declaring war, and every action that it takes up until that point will be directed towards and with the intent to finally declare war. If a comprehensive list of actions a state can take before it declares last resort and thus war is not presented, the state may act upon last resort before it ought to. There needs to be a more thorough and concrete theory, such as the scale that will be presented at the end of this thesis, for states to be able to respond to terrorism in the best and most morally appropriate way.

III. Moral Response and Terrorism Scale

In two articles written 14 years apart, Michael Walzer's arguments for moral response to terrorism show how conclusions about morally appropriate state responses can change after large scale attacks and why it is important that there should be a scale that justifies responses to a wide variety of terrorist attacks. This will prevent states from falling back upon one responsive action that they deem worthy of all attacks, such as declaring war, when another response may be more proportionate and moral. In the first article, Walzer defends his claim that the most important aspect of response to terrorism is civilian protection and resistance. He argues that states must not target the civilians of the terrorist group's state. Walzer's argument here, much like my own, is based in self-defense and protection of the innocent. In his second article, written after the September 11th attacks in New York, Walzer's theory of response changes and he claims that states should respond by declaring a metaphorical war on the terrorist group. He lays out a few actions the state should take before declaring war, but ultimately argues that the state should take actions that very closely resemble acts of war. Examining these two articles is important because it shows how the emotions experienced by leaders and the general public can change their opinions about response. This emotional change is understandable but, while politicians are supposed to be pragmatic and follow protocol, this is not always the case when one's country has just been the victim of a terrorist attack. However, not abiding by the moral rules for which I have argued in my thesis will put their citizens in danger.

Michael Ignatieff's argument that states should neither over nor underreact ends that portion of the chapter. He argues that states must straddle a very fine line between over

and underreacting because going too far in either direction puts their citizens in danger. The significance of analyzing these arguments about emotional response is that it will be shown why a scale of responses to terrorist attacks is important. If a state does not have a realistic and thorough scale off of which to base their responses, a scale which examines very crucial details of attack and response such as damage done and fear created, they might respond in a morally disproportionate way.

a. Resistance and Civilian Protection

In “Terrorism: A Critique of Excuses,” written in 1988, Michael Walzer states counterterrorism must consist of resisting terrorists, with the resistance being “supplemented by some combination of repression and retaliation.”⁴⁹ This resistance must be carefully carried out, however, because it can take “terroristic forms” and there are people who will defend these actions in similar ways to terrorists defending their terrorist acts. Therefore, he says, “repression and retaliation must not repeat the wrongdoings of terrorism,” and they are “legitimate responses to terrorism only when they are constrained by the same moral principles that rule out terrorism itself.”⁵⁰

The main moral concern for Walzer is that civilians of the terrorist group’s state cannot be targeted nor can they be aimed at in order to entice a reaction out of the terrorists. My argument for morally appropriate response is similar to Walzer’s because it is one based in protecting innocent civilians through means of force if necessary. A state should be concerned with their own civilians first, but should always keep in mind that civilians on both sides are likely to be harmed when carrying out violent actions. Walzer

⁴⁹ Michael Walzer, “Terrorism: A Critique of Excuses,” in *Arguing About War*, 60.

⁵⁰ *Ibid.*, 60-61.

brings to attention that states must be careful that their responsive actions are not terrorism. I agree with this because at least if a state were to respond with war, it would be responding, hopefully, through a justifiable theory, but if a state responds in a way that is or resembles terrorism, there is no moral justification for its actions. A state must also steer clear of terrorist tactics itself because it might give terrorists a sense of legitimacy in their own actions and this may start a cycle of terrorist attacks from both the victim state and the terrorists. Even if the terrorists continue to carry out terrorist attacks or use terrorist tactics, the state must resist using them as well because these actions are not legally or morally legitimate and, as stated before, the state then loses all of its legal and moral power. This may cause the state to lose allied backing, funding, or other means of protection when moving forward with its response.

Walzer's conclusion for the ban of acts resembling terrorism as a counterterrorism measure is that liberation will come through "a politics that mobilizes the victims of brutality and takes careful aim at its agents, or by a politics that surrenders the hope of victory and domination and deliberately seeks a compromise settlement."⁵¹ Walzer defends an active and sometimes violent response to terrorism with the goal of always protecting citizens. Here he allows deliberation for other moral response to terrorism, though just like Boyle he never explains what these actions might be. He even states that a victory might be comprised of most lives saved rather than domination. The argument I am presenting agrees with Walzer on these claims—civilians must always be protected and the state must have right intention, meaning the pride of the state must not take

⁵¹ Ibid., 66.

precedent over the goal of protecting innocent lives. There can be violent actions taken against terrorist groups that are not declaring war, such as assassination or drone strikes, as long as the actions are in proportion to the initial attacks and are carried out solely to hinder the terrorist group or state so that they cannot carry out any more attacks and in order to protect civilians. Walzer's argument here is based in self-defense and protection of innocent people, and it is a clear and unassuming approach to responding to terrorist attacks.

b. The Metaphorical War on Terror

In an article written in 2002, Walzer's argument about response was not as calm and, though he does provide other moral response options for a state to choose besides declaring war, his argument still claims the most morally appropriate response is for the victim state to declare war. The reason why it is important that his argument in this article has a different emotional tone than before and he may have been in a different emotional state than the previous article written in 1988 is because it shows how people's and state's ideas about response can be impacted during the aftermath of an attack. In this case it was the September 11, 2001 terrorist attacks in New York. Walzer states that he wants to use a "multilateral response, a 'war' on terror that has to be fought on many fronts," and since there are so many kinds of terrorism, "we should imagine the 'war' as including many possible engagements."⁵² These are important points, but it is not clear why he keeps putting war in quotations when he then goes on to say "'war' is a metaphor here, but real war is a necessary part of the metaphorical 'war.'"⁵³ A 'war on terror' is not

⁵² Michael Walzer, "After 9/11: Five Questions About Terrorism," in *Arguing About War*, 136.

⁵³ Ibid.

a metaphorical war—if one is taking war-like actions and measures to combat the enemy of terror, it is an actual war. That terrorist group does not need a home country in order to have war declared upon it, nor does the war have to be declared upon one specific group (if there were more than one group involved in the initial attack). Walzer does not clarify which parts of the war are metaphorical and which are real war, but one can infer from the nature of other counterterrorist options he presents:

In fighting against terrorists, we must not aim at innocent people (that's what terrorists do); ideally we should get close enough to the enemy, or to his supporters, so that we are quite sure...that we are hitting them. When we fight from far away, with planes and missiles, we have to get people in, on the ground, to select the targets...⁵⁴

He elaborates further and argues for steps that states should take in a certain order, the first being police work, then covert action, then diplomatic work. He also states that risks on the civilian population must be limited as much as possible and that, if there are deaths, they must be in proportion to the “value of military victory that is being sought.”⁵⁵ This elaboration on steps taken in the midst of response is vital for a state to stay within moral guidelines while still acting upon its duty to protect their citizens, and it is for these reasons that I mostly agree with Walzer.

However, his argument is framed within real war and is taking real war-like actions in response to terrorism. When he refers to police and diplomatic work, he is speaking of them within the frame of a ‘war on terror,’ which one can assume he believes is the best response. A war on terror does not always mean a traditional war which is declared upon the opposing state or group. But a war on terror does involve taking action

⁵⁴ Ibid., 136-137.

⁵⁵ Ibid., 137.

as a response against the other state. In Walzer's article, he is claiming that police and diplomatic work must be part of the war on terror and these actions are working towards defeating the terrorists in some way. I agree with these statements and I agree that taking certain steps before carrying out a war is the most moral path to choose. However, Walzer wants these actions to be framed within a declared war on terror, and this is the sentiment I wish to move away from. Taking action as a response to a terrorist attack does not always have to be a war on terror and when one uses those words, as Walzer does, one risks the chance of the actions being branded as war and also of the state falling into a slippery slope and beginning to use tactics of war outside the bounds of war. It is immoral if a state has not declared war but is using war tactics.

As stated before, one of the reasons a state needs to respond in a morally proportionate way is because if it does not, it may impact its moral standing amongst other countries. There is a moral code that countries agree to abide by and following this code allows a state to make allies and be a contender for financial and physical protection from these countries if a state responds to terrorism in a morally proportionate way. If the state does not, it compromises these opportunities. As Michael Ignatieff says, "to declare a war on terrorism risks, in itself, compromising the political values that should guide relations even with a liberal state's enemies."⁵⁶ If a state is not careful with its wording of a "war on terror," and especially not careful with the actions it takes in response to an act of terror, it might begin to use acts that are outside the realms of legally and morally

⁵⁶ Michael Ignatieff, *The Lesser Evil*, (Princeton: Princeton University Press, 2004), 101.

justified war and also the realms of political values that guide relations, as Ignatieff states.

Walzer does claim that part of the reason the real war must be part of the metaphorical war is because the just war theory applies—this is where he obtains his rules about innocent civilians, as did Boyle. But when using the just war theory, it can lead one to believe that either war should be the final culmination of these actions or that these actions can be war-like tactics. There ought to be rules regarding moral response to terrorism that are not framed in a theory for war nor that are tactics that are used in war. These actions should stand as morally correct on their own and should be actions that are morally appropriate to take even though they are not within a realm of declared war. Police and diplomatic work are not actions that must be within the bounds of war in order for them to be morally and legally justified, but when Walzer mentions that real war must be part of the metaphorical war, it leads one to believe that these actions are moving towards becoming, if not are already, acts of real war.

The terrorism scale that is elaborated on at the end of this chapter is apparent in Walzer's argument, such as when he talks about proportionality to victory or the steps of response a state should take in a certain order, but this victory is a victory in warfare. Even Walzer admits that there is a high risk of injury or death to civilians when undertaking these actions, and there is such a high risk that he is willing to argue that civilians are allowed to be put in danger—he argues for acceptance for risk—as long as it is in proportion to the good of the attack. This is the most moral justification of actions that happen in warfare and if the state has a just cause and is at its last resort, war may be the right answer. But when arguing for options of moral response that a state can utilize,

there must be options that are outside of and before warfare. The war on terror is not metaphorical when the actions the state takes in response are actions of war.

Any strategic response to a terrorist attack runs the risk of being labeled a “war on terror,” but it is important that states keep their actions morally and legally just and proportionate in order for them to not be labeled acts of war or, worse, acts of terror. The safety of civilians is dependent on the response of the state, not on the initial terrorist attack. Terrorist attacks are random and unforeseeable, so a state has limited options as to how to protect its civilians from these attacks. However, states have many different options when considering how to protect their civilians when carrying out their responses, and it is for this reason that states should consider multiple options before reacting. Michael Ignatieff says, “it is the response to terrorism, rather than terrorism itself, that does democracy most harm,” and that “while no democracy has ever been brought down by terror, all democracies have been damaged by it, chiefly by their own overreactions.”⁵⁷ It is true that terrorists rarely ever achieve their goals. Even the September 11th attacks did not bring down the United States or establish a true Islamic state anywhere (though al Qaeda’s attacks have had long lasting effects and there are partial Islamic states in the world, they did not achieve their whole goal). However, a state must achieve balance when responding to the attack and must respond with actions that are not overreacting but also not underreacting. While Ignatieff warns that an overreaction will bring a state bad consequences, he also states that underreacting is not the answer either. He says, “political leaders who fail to take adequate precautions after

⁵⁷ Ignatieff, *The Lesser Evil*, 61-80.

an initial attack will pay heavily after a second one.”⁵⁸ This may be in reference to one’s political career, seeing as the politician will have to ‘pay’, but because it is the state and government’s responsibility to protect the citizens, if they fail to do so the citizens will be put in danger and will need a new and better government and representative in order to better protect them after a terrorist attack. So although Ignatieff’s comments are geared towards the politician’s career, it proves that a state must not underreact or civilian lives will be put in danger. It is this balance between over and underreacting that will give the state’s citizens the best protection and security. By overreacting, the state may be taking away citizen’s liberties which is a harm in itself. By underreacting, the state may be putting citizens in danger by not providing enough protection and security. It is a fine line to balance. The closest I believe states will come to achieving this balance is to follow a scale which provides moral responses to different kinds and levels of terrorist attacks.

c. The Terrorism Response Scale

The scale presented here presents actions that a state should take in response to different levels of terrorist attacks. It takes into consideration the death toll of the attack, how much damage was done, how much fear it caused, and also the strength of the group and how likely it is the group will or can attack again.⁵⁹ As Ignatieff says, “a war on terror that is not guided by a clear political strategy, to win support for democratic

⁵⁸ Ibid., 58.

⁵⁹ It is incredibly difficult to gauge fear and whether a terrorist group will attack again based solely on how strong they are or how much they dislike the victim state. However, these factors need to be taken into consideration for this scale. Therefore, fear should be measured in various ways, including: damage done, death toll, how random the attack was, and how likely it is they will be able to fight back if they needed or wanted to. This is not a perfect measurement by any means, but I believe it does gauge some level of fear and fear is an important factor in a terrorist attack. Whether or not the terrorist group will attack again is purely a guess, but historical analysis of previous attacks or dispute between the terrorists (and maybe their country) and the victim state allow an educated guess to be made.

government and drain support from terror, is bound to fail.”⁶⁰ By taking my definition of terrorism, my arguments against Boyle’s call for an immediate just war and Walzer’s call for a metaphorical war, and my stance against allowing emotion into a state’s response, this scale was created as the proper tool for states to use when they have been the victim of a terrorist attack. Although it will be stated how to evaluate the level of the terrorist attack of which the state has been the victim, the scale is a theoretical example and a call for further examination. I believe the scale provides a proportionate balance of response to the level of attack. However, what I mostly want to call attention to is the fact that there is not proper contemporary literature which rectifies the fact that states are more and more often becoming victims of terrorist attacks and are unsure of how to properly respond. The responses that are available to them are either over or underreacting, both of which will cause them further harm. What this scale achieves is a balanced approach to responding to terrorist attacks while keeping the state’s interests in mind and protecting its citizens from further damages caused by itself or the terrorist group. The scale is presented below as Figure 1. After is an elaboration of each step and the reason why it is the proper and proportionate action to take considering the attack.

⁶⁰ Ignatieff, *The Lesser Evil*, 82.

Level	Response
1	Active defense at home, police and diplomatic work, target hardening. 0-50 fatalities. Minor damage.
2	Forming and/or contacting allies. 50-150 fatalities. Minor to major damage.
3	Weakening the enemy, active occupying defense. 150-250 fatalities. Major damage.
4	Targeted strikes. 250-300 fatalities. Major damage.
5	Declare war. 300+ fatalities. Catastrophic damage.

Figure 1.

The factors taken into consideration for this scale should be death toll, damage done, fear caused, and the strength of the terrorist group and/or the likelihood the group will attack again. Causing death to any amount of people is horrible and placing numbers on the goodness or badness of the death of people seems contradictory to the ethical value of not killing and having the right to not be killed. But as proven before, proportionality is pertinent to limiting the number of people killed. There are consequences that come with responding to the death of people and these consequences will be more fatal if they are not proportionate. Therefore, there ought to be a number of deaths taken into account in this scale in order to gauge what moral and proportionate response the state should take. Damage done is another number that needs to be taken into consideration. Damage done means how much space was devastated and ruined due to the attack. This can include physical buildings or city blocks. Damage is important to consider because the state must take action in order to rebuild and if it has been wronged, as it would be if a terrorist attack ruined parts of the state, it ought to be able to act in

self-defense. Damage is one factor of the definition of terrorist attacks that philosophers do not always agree on. However, in chapter one I proved that damage ought to be taken into consideration because it is tied up with fear. If a terrorist damages parts of people's homes (meaning both their own homes and the state in which they live), this is an act that will instill fear into people and will cause them to live their lives in a state of terror. What kinds of buildings the terrorists target will not be taken into consideration here, but there ought to be a level of damage taken into consideration so that severity of the attack can be noted.

The level of fear caused is the most difficult aspect of this scale to gauge; however, it should be outlined because the safety of the state's citizens comes first and the state should be worried about the right of their citizens to not have to live their lives in fear. Fear should be gauged by many different factors, including damage done, death toll, and whether the state that was attacked has the means to fight back. Although it isn't a perfect measurement, it will give some indication of the level of fear and this will help guide the scale. The last factor taken into account for the scale is the strength of the terrorist group and how likely it is the group will attack the victim state again. Although this is only an educated guess, if the two states have been at odds or if the terrorist group has reason to dislike or harm the victim state for political or economic reasons, this is important to take into consideration because it allows one to gauge how immediate and severe the response should be. For example, if a terrorist group has contacted the victim state before and claims they will carry out multiple attacks if the state does not change x or y about their state, the state may be able to immediately act on step three while also

carrying out steps one and two because it has been informed that the group is probably going to strike again.⁶¹

The numbers placed within this scale are numbers I calculated based on information in the online Global Terrorism Database, based out of the University of Maryland. The database has information from 1970 to 2014 and has 1,026 pages of terrorist attacks with known death tolls at 100 attacks on each page. Within those 102,600 attacks, only 7 have a death toll of 400 or above.⁶² The highest death toll of a terrorist attack reaches 1,382, which is the result of the September 11th attacks in New York. There are 1,021 pages of attacks with a death toll of 50 people or less. I present this information for two reasons. One, I wish to draw attention to the fact that terrorist attacks are not as deadly or successful as one might believe. This is not to demean the effects of an attack—an attack with a fatality rate of 0 can still cause a lot of fear and damage.⁶³ However, when approaching this scale and the varying levels, I wish to remind people that terrorist attacks are not frequently highly deadly. Two, I am using this information to support the numbers I have placed in this scale. While the September 11th attacks are the deadliest in history with a fatality toll of 1,382, the next highest number is 670.⁶⁴ The leap between higher and lower numbers helped me determine the proportionate response

⁶¹ The state would need evidence in order to believe the terrorist group is actually going to strike again before it can jump steps, but looking at the history of the state and the group, amongst other factors, will help further understand whether the threat is real.

⁶² Global Terrorism Database. Last modified June 2015.

https://www.start.umd.edu/gtd/search/Results.aspx?expanded=no&casualties_type=b&casualties_max=&start_yearonly=1970&end_yearonly=2014&criteria1=yes&criteria2=yes&dt2=some&success=no&ob=TotalNumberOfFatalities&od=asc&page=1089&count=100#results-table

⁶³ This study only focuses on fatality rates, not injury rates.

⁶⁴ Incident Summary for GTD ID 201406100042. Global Terrorism Database. Last updated June 2015. <https://www.start.umd.edu/gtd/search/IncidentSummary.aspx?gtdid=201406100042>.

to an attack. For example, with so many attacks with a fatality rate of under 50, would it truly be proportionate to carry out an assassination as a response to each of these attacks? And should I consider the fact that the second highest fatality rate of an attack is less than half of the attack with the highest fatality rate? When taking numbers into consideration, I had to balance the information from this scale with an ideal number. This ideal number is one which I believe is proportionate to the level of response a state could act upon. However, this information from the database helps shape my numbers and helps show why the scale is important. There are so many terrorist attacks that are unsuccessful or have a very low death toll which do not warrant a physical response or war.

The Global Terrorism Database also gives information on damage done. From assessing the information from attacks with 0 fatalities, I've come to the consensus that minor damage is likely less than one million dollars.⁶⁵ Information from more deadly terrorist attacks does not always correlate to death toll. The other options for damage done are major, meaning more than one million but less than one billion, and catastrophic, meaning more than one billion.⁶⁶ Physical damage can be measured in other ways besides monetary, but this information helped shape my understanding of physical damage from terrorist attacks in relation to the level of proportionate response. Death toll should always weigh more heavily than physical damage done, but the physical damage

⁶⁵ Example: Incident summary for GTD ID 201412140043. Last updated June 2015.
<https://www.start.umd.edu/gtd/search/IncidentSummary.aspx?gtid=201412140043>.

⁶⁶ Example: Incident summary for GTD ID 200607120001. Last updated June 2015.
<https://www.start.umd.edu/gtd/search/IncidentSummary.aspx?gtid=200607120001>, and incident Summary for GTD ID 200109110005,
<https://www.start.umd.edu/gtd/search/IncidentSummary.aspx?gtid=200109110005>.

is important to take into consideration because of fear caused and infringement of the right to live one's life with physical security.

The first response a state should take to a terrorist attack is active defense at home. Although Walzer's argument is grounded in a metaphorical war on terror, his argument that a state should partake in police and diplomatic work is strong and should be the first steps a state takes to protect itself after an attack. There is a concern about infringing on people's liberties when responding to terrorist attacks with these means. Although this argument cannot be expanded upon here, the first step in responding to a terrorist attack should always be taking means inside one's own state in order to protect citizens. The extent a state should act upon this action is a current debate which has no final answer. For my argument, police and diplomatic work will entail increased security for citizens and officials convening in order to determine if and how to move forward with the state's response. This step can and ought to be utilized after any sized terrorist attack. Whether the terrorist attack was small or large, the state is wise to take this as a first step because it will protect its citizens while it figures out what level on the scale the terrorist attack was and if and how it ought to move forward.

The second step a state should take is forming allies or reaching out to allies they already have in order to garner support. The state should start gathering its resources and informing its military and allies that they might have to move forward with a physical response. After the state acts upon the first step and begins to protect citizens at home, and it has determined that it needs to act in self-defense or the terrorist group will strike again, this intermediate step between acting at home and acting in the terrorist's territory is crucial. If the state determines it can or wants to act alone, it still must inform other

states that it is going to do so. This ensures that the state maintains good moral standing amongst other states. When informing other states that the victim state is going to act, it will share information it has on the initial attack, share information gathered, and guarantee that it is acting upon a just cause with the right intention, and it will have the other states to reinforce this. This also gives the state another level of protection for its citizens. If something goes awry with the state's future attack or if the terrorist group is strong enough to fight back, other states may be able to step in and help protect the victim state's citizens.

The third step a state should take is to weaken the enemy and to send in occupying defense. The state is now taking physical action and entering the enemy state or approaching the enemy group. The terrorist group must still pose a threat to the victim state in order for them to move forward with this physical occupation. This step includes occupying public spaces, intelligence gathering on the ground, and raids on facilities. This step generally lets the victim state's presence be known. The third and fourth step are very close to each other, as will be shown when explaining the fourth step. However, the third step must be taken before getting to the fourth (even if in most cases the fourth step will almost always be taken immediately after the third) because one cannot take the kind of action required in the fourth step without first gathering information in the way the third step does. The goal of the third step is to create fear for the terrorists and to raid facilities in hopes the terrorists can be captured without executing them first. This also reduces the risk of harm done to citizens in the victim state, as the occupiers will be engaged with them (either from afar or up close) and will be working on capturing them before they can do more harm.

The fourth step is to carry out targeted strikes, such as drone strikes or assassination. Up until this step, the state should have been gathering information and, if it has enough information to target an enemy and strike without hurting anyone else, it should act on taking down the head of the organization (or other important actors in the group). By the time the state reaches this level, it should have taken steps to protect its citizens at home, joined together with allies (or at least informed them of their planned actions), and taken steps towards weakening the enemy. If all of this fails, if the terrorist group is still a threat or is planning to attack again, or if the attack was so severe that the state can begin at this step, it is morally proportionate and acceptable to carry out targeted attacks such as these because they are taken in self-defense. As long as the attacks are guaranteed to be contained, will avoid harming citizens, and there is enough intelligence gathered that the target of the attack is a guaranteed member of the terrorist group, it is morally acceptable to act physically in this way.

The fifth and final step is to declare war. If the fourth step fails (fail to hit the target, fail to take down the rightful head of the group, the group enacts a new leader and begins to move forward with another attack), and the state has already acted upon every other step or will enact the other steps as they're preparing to carry out the fifth step, the state has the right to declare war against the terrorist group or state. If the initial attack is of a certain level, causes a certain number of deaths, damage, and fear, and there is a strong likelihood another attack will happen in the near future, a state may start at this level. When a state starts at this level, it must be prepared to carry out the conditions of the other levels. For instance, level one and two must always be acted upon. A state must take active defense at home and must inform other states of the plan. The information

gathering and weakening aspect of level three must be taken. A state cannot declare war without knowing who it is declaring war upon—it must be the correct terrorist group with the correct leader within the correct state (if there is a state). Without this information, a state may not proceed because there is too much risk of bringing harm upon the wrong people and harming citizens in the process as well. Targeted strikes are always a better idea than declaring war because they allow the most protection to citizens of both the home state and the enemy state. A state can declare war with the intention to carry out targeted attacks only but they must remember that it opens up a pathway, legally and morally, for the terrorist group to respond. So if a state's intention is to carry out targeted attacks, the more proportionate and moral option would be to make sure it has a just cause to do so (both a just cause meaning a reason and a just cause that has been approved by their allies/other states) and to carry them out without formally declaring war. If the state wishes to open these boundaries because the attack brought upon it was so large-scale and severe, it may do so when it reaches this level. The state must then abide by the laws of just war theory and must be prepared to protect its citizens the best it can.

This scale is a call for further research and action. I believe the levels are proportionate and thus moral, and my arguments against Boyle and Walzer have shown that the scale is necessary and the levels are carefully placed. However, if a scale similar to this were ever to be enacted as law, the numbers that the scale is contingent upon could vary. The death toll, damage done, and fear caused could all be further researched and substantial numbers could be placed within this scale. The strength of the terrorist group, likelihood that they will attack the state again, and the historical relationship between the

group and the state must also be further researched and this information must be added to the scale as each unique attack arises. There is a lack of options for state response to terrorism that is morally proportionate and does not put citizens in danger. This scale hits the mean between the extremes of over and underreacting and it allows a state to morally assess their options of self-defense and proportionate response whilst still protecting their citizens to the best of their abilities.

IV. Conclusion

In this thesis I have proven that there is a lack of contemporary literature that offers states moral and proportionate responses to terrorist attacks. The responses available ought to be based in self-defense, as states have a moral right to self-defense because it is morally permissible for states to protect themselves and their citizens and a legal right to self-defense because they have been harmed and are allowed to take actions to respond to this harm. The responses also ought to have the main goal of protecting the wellbeing of the citizens of the state first and foremost, and the actions I have explained in the scale accomplish this.

Terrorism was defined here to reflect what it looks like in modern day. If the definition of terrorism stays confined to only innocent civilians, the world will never get any closer to abolishing terrorism. The definition must include attacks against combatants and against property. Terrorist attacks can take many different forms today and this must be taken into consideration in order to monitor terrorist groups to prevent further attacks and protect the most people. Most importantly, this definition of terrorism will help determine how states can move forward with intelligent and proportionate responses.

I have also proven that just war theory is not the proper theory for states to immediately turn to after being the victim of a terrorist attack because war should not be the first response a state takes and the actions taken within this theory assume a state is preparing to declare war. A state should consider the severity of the attack and whether the terrorists are going to strike again soon before taking action, and if the severity and sense of emergency is not at a certain level the state should not be taking actions that are presumed to lead to war. The severity of the attack is shown in the scale and takes into

account fatality rate, damage done, and fear caused. These factors need to be taken into consideration because of the ethical goodness of proportionality and the morality and legality of being in good standing amongst other states. If a state responds to a terrorist attack in a way that is disproportionate, it is carrying out an action that is immoral and could also impact moral standing with other states. Responding immorally also puts the state's citizens in danger more so than responding morally would. If the state is a victim of a small terrorist attack and responds with a large scale response, this could entice an even larger response from the terrorist group and eventually cause more violence and death. A state cannot control the initial terrorist attack nor any further attacks as a result of the state's response. However, if the state responds in a proportionate and moral way, this will keep further violence and death to a minimum. If it is concluded that a state does not have the right to declare war, it should not be taking actions that resemble war or are leading up to a war. Therefore, just war theory is not the proper theory a state should immediately turn to when considering response to a terrorist attack and the argument I have defended here is a good alternative.

Although I am arguing for other theories of moral response, I prove that there are good factors of just war theory that should be used in all responses. A state must have a just cause to defend its response which should be presented to other states in order to determine whether this cause is truly just. A state must also have the right intention. This factors into proportionality because if a state does not have a proportionate response it most likely does not have the right intention. Responding to a small attack with a larger response evokes feelings of revenge or hatred, and these cannot fuel response. Lastly, I have defended the claim that last resort is a confusing condition of just war theory

because there is no literature informing states of the actions they must exhaust before reaching their last resort. This is why I have created the terrorist response scale.

By comparing two articles written by the same author almost two decades apart, it has been shown how a person's emotional response can affect his position on what responses are morally appropriate to terrorist attacks. Terrorist attacks evoke emotions because people have died, portions of one's home has been destroyed, and there is a feeling of being violated. However, responses to terrorist attacks must be carried out without emotional bias because if a state under or overreacts, it can put its citizens in danger.

Lastly, I have defended different levels of proportionate and moral actions in response to different levels of terrorist attacks using the terrorism response scale. The information in the scale can and ought to be changed as more and newer information is learned about terrorists and terrorist attacks, just as I have created a new theory as I learned more about terrorism. Just war theory is no longer providing information or advice needed for modern day terrorism and this scale is an option to use in its place. One could argue that the death of any number of people is unethical and warrants a larger attack against the terrorists than they brought upon the state in the first place. I agree that killing any number of people, even just one, in a terrorist attack is horrible and the unpredictability and surprise of terrorist attacks are part of what make them so unethical and so sickening. However, if a state's intention for response is based in the safety and livelihood of its citizens (and the fact that this was violated because of the attack), it should not carry out a larger response because it will only lead to more deaths of its citizens. Responding in a moral and proportionate way is all that is in the state's control

and it must react in a way which best serves itself. On the other hand, one could argue that a state should not always respond in a proportionate way because maybe it should not respond at all. An argument could state that my scale looks like revenge and if the terrorist group is not going to attack again in the near future, the state should not take any action outside of its own borders. My response to this is that the state has a right to act in self-defense so it is allowed to take proportionate action. If one has been wronged, they are allowed to take steps to fix that wrong. Also, I've argued that a state does not have to, and maybe shouldn't always, act upon just cause. If a state decides it does not want to take action even if the scale allows it to, it does not have to. The scale is ultimately self-serving and a state should use it as it sees fit.

This argument is an intermediate step between terrorist attacks and hopefully ending all terrorism. I realized that, while the world is trying to find an end to terrorism, states were left without options to protect themselves other than war which brings more destruction. This does not bring us any closer to stopping terrorism and the violence that stems from it. Even if there are such discrepancies with my argument as explained above, it is important that this issue is being raised and talked about. I believe my argument is valid and that the scale is a morally proportionate answer to the problem of lack of state options of response. What I wish to accomplish with this argument is to illuminate the fact that states are left helpless when terrorists attack and only bring further harm to themselves when they declare war. States have the right to respond in self-defense to protect themselves and I believe this response should be proportionate for their own moral standing in the world and also because it is the best theory to prevent further harm to their citizens. This is why I believe my argument and scale are good tools for states to

use and they are a good response to the lack of state options of moral response to terrorism.

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