CHAPTER FIVE

THE TEMPTATIONS OF Nihilism

“They cannot be otherwise. Their character is built upon conventional morality. It leans on the social order. Mine stands free from everything artificial. They are bound by all sorts of conventions. They depend on life, which, in this connection, is a historical fact, surrounded by all sorts of restraints and considerations, a complex organized fact open to attack at every point; whereas I depend on death, which knows no restraint and cannot be attacked. My superiority is evident.”

—Joseph Conrad, The Secret Agent (1907)

I

In Joseph Conrad’s The Secret Agent, written under the impact of anarchist terrorist incidents in London and Paris in the 1890s, there is a character called the Professor who walks about the streets of London, one hand clutching a detonating switch attached to a supply of explosive in his coat. He can blow himself up at any moment if the police try to arrest him. Conrad imagined the Professor as having been an assistant demonstrator at a technical institute and then a lab technician for a dye manufacturer, who after being dismissed, conceives a grudge against the world. As Conrad remarks, “The Professor had genius but lacked the great social virtue of resignation.” Living in extreme poverty in rented rooms in one of London’s poorest neighborhoods, the Professor devotes himself day and night to perfecting detonating systems. He is prepared to sell them to anyone who wishes “to break up the superstition and worship of legality” in the society around him. He frequents the edges of the revolutionary socialist underground but actually regards the revolutionists with the same contempt as he does the police. “The terrorist and the policeman both come from the same bas-
ket. Revolution, legality—counter moves in the same game; forms of idleness at bottom identical.” They cling to life, he says bitterly, whereas he only wants death and is therefore invulnerable. Revolutionary dreams, bourgeois legality, all these ideals were indifferent, the Professor thought, compared to the goal to which he had devoted his life: making “the perfect detonator.”

The Professor is the first great portrayal of a suicide bomber in modern literature. What Conrad wants us to see in this demonic portrait of terrorist motivation is that political goals as such—revolution, justice, and freedom—have little to do with what really drives the Professor. The core of his motivation is much darker: contempt for a society that refuses to acknowledge his genius; fascination with the invulnerability that his own willingness to die confers upon him; and an obsession to master the means of death. The Professor’s Holy Grail—the perfect detonator—is only a symbol of the true promise of terrorism: a moment of violence that will transform a penniless nonentity into an avenging angel.

This portrait of the terrorist poses a particular challenge to the analysis I have been pursuing so far. What happens to a war on terror when violence gets out of control, when both sides begin to behave like the Professor, obsessed with the means of their struggle and indifferent to the ends these means are supposed to serve? Thus far I have argued as if terrorists and the states that fight them discipline the means they employ by the ends they seek. Those who resort to political violence do so in the name of freedom and self-determination on behalf of the oppressed. Counterterrorists, for their part, fight to defend the principles of their state. On the basis of these assumptions, it becomes possible to imagine that both of them might wish not to tarnish the ends they seek by the means they employ. An interrogator working for a liberal democratic state could be persuaded—by the values he is charged to defend—that the use of torture betrayed that state’s very essence. Terrorists who might justify killing civilians as the lesser evil could be persuaded to turn away from terror if they could be shown that the same goals could be achieved by peaceful means. On the assumption that
both terror and counterterror are political phenomena, driven by political goals and ideals, it might be possible to imagine that these goals could prevent both sides from sliding down a spiral of mutually reinforcing violence.

What if these assumptions aren’t true? What happens when political violence ceases to be motivated by political ideals and comes to be motivated by the emotional forces that Conrad understood so well: resentiment and envy, greed and blood lust, violence for its own sake? What happens when counterterrorism, likewise, ceases to be motivated by principle and comes to be driven by the same complex of emotional drives?

It is one thing to argue that terrorism must be understood politically, another to pretend that political goals always determine the actions of terrorists. It may be that much lower motives, those animating the Professor, are the ones we need to understand if we are to grasp why it is that noble goals are so often betrayed by those who think they are serving them. The same may be true of the agents sent to apprehend people like the Professor. They may be guided by codes and values that have nothing to do with those of the society they are representing: the warrior codes of loyalty to their own, values of revenge, and the pure excitement of instilling fear in others.

In this chapter, I want to look at violence as nihilism and seek to explain why both terror and counterterror can become ends in themselves, and why so many wars on terror degenerate into a downward spiral of violence. I have already suggested one reason why this should be so: terrorists deliberately seek to provoke it, in order to get inside the decision cycle of the state they are opposing and drive it toward ever more brutal oppression. The goal of terrorists is to erode the moral identity of the state, together with its will to resist, and pry a subject population away from obedience to its rule. If this is an explicit political goal of most terror strategies, it is vital for leaders in democratic states to avoid falling into this trap.

But this is easier said than done. What needs explaining is why counterterror wars slip beyond political control, why they fall into the trap set by terrorists, but also why terrorists them-
selves lose control of their campaigns and impose horrible losses on their own side before acknowledging defeat. In order to explain these dark features, we need to move from politics and law to the psychology of nihilism.

First a word of explanation about nihilism. It literally means belief in nothing, loss of any restraining or inspiring set of goals. I do not want to use it literally or to imply that counterterrorists or terrorists believe in nothing. They may both start with high ideals and lose them in the carnage of the struggle. I am using the word, first of all, to capture a form of alienation, in which both sides in a war on terror lose proper sight of their own objectives. Coercive means cease to serve determinate political ends and become ends in themselves. Terrorists and counterterrorists alike end up trapped in a downward spiral of mutually reinforcing brutality. This is the most serious ethical trap lying in wait in the long war on terror that stretches before us.

The word nihilism was first paired with terrorism in the 1860s in czarist Russia. Dostoevsky and others used it to describe the worldview of the terrorists led by Sergei Nechaev, whose Catechism of a Revolutionary set out a program for the seizure of power. Nechaev deliberately promoted acts of savagery designed to provoke the czarist regime into a bloody showdown. Nihilism originally meant an aggressive hatred for suffocating and hypocritical bourgeois convention. The program of the nihilists was not literally nihilistic, however, since destruction was supposed to prepare the way for the building of a just society on the ruins of the old. But opponents of these groups seized on the epithet, arguing that their destructive methods vitiated their redemptive social ideals. Groups who accepted nihilism as a designation did so because it captured their utter rejection of the existing social order. One such group eventually assassinated the Liberator Czar, Alexander II, in 1881.

The greatest literary portrait of terrorism as nihilism is not coincidentally Russian: Fyodor Dostoevsky’s The Possessed, published in 1871. It tells the story of a small terrorist cell led by the charismatic Stavrogin and the malicious trickster Verkovensky, who take over a small Russian town, enlist the support of gull-
ible and self-hating liberals, and then set off on a fire-raising rampage that leaves buildings burned, innocents dead, and one recanting member of the terrorist group murdered. This last murder is the moral clue to the meaning of the tale, since he alone believed in the political ideals for which the violence was carried out. Because of this, Dostoevsky seems to say, he is the only one to realize that the ends had been hijacked by the means. For his moral recognition and for his attempt to denounce the group and leave, he pays with his life.

Dostoevsky, who had been in a conspiratorial group himself, was, like Conrad after him, a master of terrorist psychology. But his portrait of terrorism depended on an elaborate metaphysical criticism of modernity in which the terrorist became the pathological expression of a society that had lost shared faith in God and surrendered to a cruel and narrow individualism. Terrorism, in Dostoevsky's analysis, is the mirror image of the nihilistic society the terrorists want to destroy.

We don't have to accept Dostoevsky's apocalyptic musings about modernity or believe, as he seemed to imply, that when modern societies were struck by terror, they were getting what they deserved. We can set these thoughts aside and concentrate instead on the unparalleled acuity of the Russian author's portrait of nihilism as a state of mind. In the novel, the terrorists spout the rhetoric of revolutionary politics, but their rhetoric is as empty as their souls. Evil fills their spiritual void. What appeals to them is extremism for its own sake. This is nihilism, in a second sense, as cynical disbelief in the goals one outwardly professes. By setting the action in a small town, rather than in Moscow or Petersburg, Dostoevsky wants to emphasize the political futility of the exercise: burning down a remote Russian town is hardly likely to start a revolution across the Russian Empire. But this doesn't seem to matter to the conspirators. They are in love with conspiracy itself. Dostoevsky's portrait of the terrorists is both comic and ruthless, capturing the po-faced babble of the conspirators, their ludicrous incapacity to attend to what they are saying. Of one character, Dostoevsky writes, "he rejects morality as such and is in favor of the latest principle of
general destruction for the sake of the ultimate good. He already demands more than a hundred million heads for the establishment of common sense in Europe." The ringleader Verkovensky deliberately cultivates the rhetorical extremism in the circle in order to create a demented world in which no one is capable of seeing the true insanity of the destruction they propose. Verkovensky is Dostoevsky’s portrait of the terrorist as trickster, reveling in his own capacity to exploit the emptiness and gullibility of his fellow conspirators. Politics, for Verkovensky, is a cynical game, sustained by the delights of duplicity. He mouths platitudes about justice because they enable him to capture adherents, make sexual conquests, and secure power, money, and influence along the way. In this portrait of evil as a monstrous inversion, high principles become the means and violence the true end of political action.

Dostoevsky perfectly captures this second sense of nihilism as cynicism. In this sense, the term denotes the commission of violence for the sake of personal aggrandizement, immortality, fame, or power rather than as a means to a genuinely political end, like revolution or the liberation of a people. This inversion may be what has happened to the suicide bombers attacking cafés, bars, and bus stops in Israel. It may also have occurred among the suicide bombers who hijacked the planes on September 11. Since they have paid for their acts with their lives, we have no way of knowing what their motivations were. The fact that some suicide bombers taped declarations of high political intent does not prove that these intentions actually drove their actions. Suicide bombing may be a death cult, in which the stated political goals—freedom for oppressed or occupied peoples—are less important than objectives of the kind Conrad’s Professor so obviously craved, such as fame, immortality, an instant of significance. While suicide bombing does take courage, it might be a mistake to assume that courage is necessarily motivated by a noble goal. Courage may be inverted in the service of cult-like goals: death, immortality, self-vindication as a martyr. Moreover, in a process of inversion, estimable goals like freedom and justice are perverted into justifications for inhuman crimes.
and atrocities. This matters because political concessions to the causes represented by suicide bombers might not have any effect on the motivations of the bombers themselves, for these have moved beyond politics into an eschatology of personal redemption through death.

Neither side in a war on terror is immune from this temptation of coming to see violence as an end in itself. Agents of a democratic state may find themselves driven by the horror of terror to torture, to assassinate, to kill innocent civilians, all in the name of rights and democracy. Succumbing to this inversion is the principal way that both groups slip from the lesser evil to the greater.

If, however, this temptation is strong, a strategy of combating it with lesser evils may not be plausible at all. A lesser evil morality may be too rational. It makes the assumption that violence by a liberal democratic state faced with terror can be controlled in the name of ethically appropriate ends like rights and dignity. A lesser evil approach to a war on terror would assume, for example, that agents of a liberal democratic state should be able to hold the line that divides intensive interrogation from torture, or the line that separates targeted assassination of enemy combatants from assassinations that entail the death of innocent civilians. Current U.S. policy does not allow assassination of civilians in peacetime but does permit killing of enemy combatants in wartime, with the proviso that such assassinations must be discriminate and avoid collateral damage. This policy—a lesser evil approach if there ever was one—implies that the agents charged with defending a state have the strength of character, together with a clear enough sense of the values of the society they are defending, to be trusted with morally ambiguous means. But a perfectionist case against such an approach would argue that morally equivocal means are hard to control and thus liable to end in betrayal of the values that a liberal democracy should stand for. Hence liberal states should not allow those who defend them to have any of the moral discretion implied in lesser evil approaches. States should absolutely ban extreme interrogations, targeted assassinations, and other uses of vio-
lence, because once you start with means like these, it becomes next to impossible to prevent the lesser from shading into the greater evil.

Another problem with the lesser evil would be that liberal democratic regimes encourage a kind of moral narcissism, a blinding belief that because *this* kind of society authorizes such means, they must be acceptable. Thus democratic values, instead of preventing the lesser from shading into the greater evil, may actually blind democratic agents to the moral reality of their actions. The nobility of ends is no guarantee against resort to evil means; indeed, the more noble they are, the more ruthlessness they can endorse. This is why democracy depends on distrust, why freedom’s defense requires submitting even noble intentions to the test of adversarial review.

I can see three distinct ways—the tragic, the cynical, and the fanatical—in which nihilism can come to dominate both a terrorist campaign and a war on terror. The first might be called tragic because it occurs despite the political intentions of all concerned, when terrorists and counterterrorists become trapped in a downward spiral of reprisal and counterreprisal. One side kills to avenge its last victim; the other side replies to avenge its last victim. Both sides start with an ethic of restraint and end up in a struggle without end.

Here shedding of blood creates two communities—the terrorists and the counterterrorists—in which loyalty to the group prevails over institutional accountability or individual principle. Both sides are bonded to their own because both have blood on their hands or blood to avenge. Their bonds to the group are stronger than any they have to the institutions that could possibly restrain their behavior. Violence creates belonging and belonging produces closure. Terrorists listen only to themselves and no longer to restraining messages from the communities their violence is supposed to serve. Counterterrorist agencies, having suffered losses, bond with each other, view their civilian superiors as spineless libertarians, chafe under operational restrictions on their use of force, seek to evade these wherever possible, covering up as they do so, and seek to fight the terrorists
on their own terms. At the bottom of this downward spiral, constitutional police forces and counterterror units can end up behaving no better than the terrorist cells they are trying to extirpate. Their moral conduct becomes dependent on the increasingly repellent conduct of the other side. This is the unintentional path to nihilism, taken by constitutional forces to defend the fallen and to revenge their losses. In the process, torture and extrajudicial killing may become routine.

Gillo Pontecorvo’s masterful film The Battle of Algiers (1965) portrays the Algerian war for independence, between 1955 and 1962, as a tragic duel in which two sides, conscientiously believing in the rightness of their course, become trapped in just such a downward spiral as we have been considering. The film may be fictional, but it is drawn from extensive documentary research into the actual history of the Algerian struggle. While clearly siding with the Algerian revolution, Pontecorvo takes care to avoid any moral caricature of the French, and shows why torture could be seen as a rational and effective way to break up the terrorist cells working in the Algiers Casbah. Nor does the filmmaker conceal the bloody reality of the liberation struggle, showing the full horror of an attack on a café that leaves the street strewn with mangled bodies and traumatized survivors. The film maintains an extraordinarily subtle moral balance, supporting the Algerian struggle for freedom without mitigating the crimes committed in its name; condemning the French use of torture without failing to do justice to the reality that it was committed not by brutes but by people with dedicated convictions. The Battle of Algiers thus becomes a testament to the tragedy of terrorist war.

Calling this path tragic is not to excuse it, merely to distinguish it from a second path, which is altogether more cynical. In the tragic path, violence, once used as a means, becomes an end in itself, to the horror of those who are trapped by the conduct of the other side. In the second path, violence doesn’t begin as a means to noble ends. It is used, from the beginning, in the service of cynical or self-serving ones. On both the terrorist and counterterrorist sides, there are bound to be individuals who ac-
tually enjoy violence for its own sake. Violence and weapons exert a fascination all their own, and their possession and use satisfy deep psychological needs. It isn’t necessary to delve into the question of why human beings love violence and seek to use weapons as instruments of power and even of sexual gratification. The fact that violence attracts as well as repels is a recurring challenge to the ethics of a lesser evil, since it explains why the appetite for violence can become insatiable, seeking ever more spectacular effects even though these fail to produce any discernible political result. Many terrorist groups use political language to mask the absence of any genuine commitment to the cause they defend. In their cynicism, they can become uncontrollable, because once violence is severed from the pursuit of determinate political ends, violence will not cease even if these goals are achieved.

What is true of terrorists can also characterize counterterrorists. The type of personnel attracted to police and antiterrorist squads may be recruited because they are drawn to violent means. These means confer power, boost sexual confidence, and enable them to swagger and intimidate others. The type of personality attracted into a counterterror campaign may not have any intrinsic or reflective commitment to democratic values of restraint. Rules of engagement for the use of deadly force need be obeyed only when superiors are watching and can be disregarded at any other time.

There may always be a gap, therefore, between the values of a liberal democracy when it is under attack and the conduct of the counterterrorist forces who have to take the war to the enemy. There is no necessary reason to suppose that those who defend a democracy do so out of any convinced belief in its values. Their chief motivation may be only the thrill of the chase and the glamour of licensed violence. Liberal states cannot be protected by herbivores. But if we need carnivores to defend us, keeping them in check, keeping them aware of what it is they are defending, is a recurrent challenge.

On the terrorist side, there will always be a gap between those who take the political goals of a terrorist campaign seriously
and those who are drawn to the cause because it offers glamour, violence, money, and power. It is anyone’s guess how many actual believers in the dream of a united Ireland there are in the ranks of the IRA. But it is a fair bet to suppose that many recruits join up because they want to benefit from the IRA’s profitable protection rackets. The IRA bears as much relation to the Mafia as it does to an insurrectionary cell or a radical political party, and the motivations that draw young people into the movement are often as criminal as they are political. When criminal goals predominate over political ones, it becomes difficult for leaders to prevent their followers from turning violence into an end in itself.

The criminal allure of terrorist groups and the cynicism of those who join them are additional reasons why it is a mistake to conciliate or appease a group like the IRA with political concessions. Their political goals may be subsidiary to their criminal interests, and like any criminal enterprise they can be driven out of business only by the force of the law. Equally, to express surprise that they tarnish political ideals with squalid tactics, or that they seem to be indifferent to the costs that their violence imposes on the communities they purport to represent, would be to misunderstand their real nature and purpose.

Not all terrorists, however, are moral cynics. Not all terrorist groups use politics as an excuse for other straightforwardly violent ends. There are other groups whose political purposes are genuine, but who nonetheless end up turning violence into a way of life. These are the groups that have the characteristics, not of criminal gangs, but of fanatic sects. Here nihilism takes the form, not of believing in nothing, but of believing in too much. What I mean is a form of conviction so intense, a devotion so blind, that it becomes impossible to see that violence necessarily betrays the ends that conviction seeks to achieve. Here the delusion is not tragic, as in the first case, because believers are not trapped into violence by the conduct of the other side. Nor is it cynical: for these are true believers. They initiate violence as a sacred and redemptive duty. This is the third path to nihilism, the fanatical use of high principle to justify atrocity.
What is nihilistic is the belief that such goals license all possible means, indeed obviate any consideration of the human costs. Nihilism here is willed indifference to the human agents sacrificed on the altar of principle. Here nihilism is not a belief in nothing at all; it is, rather, the belief that nothing about particular groups of human beings matters enough to require minimizing harm to them.

The high principles commonly used to justify terrorism were once predominantly secular—varieties of conspiratorial Marxism—but today most of the justifying ideologies are religious. To call religious justifications of violence nihilistic is, of course, to make a certain kind of value judgment, to assert that there cannot be, in principle, any metaphysical or God-commanded justification for the slaughter of civilians. From a human rights standpoint, the claim that such inhumanity can be divinely inspired is a piece of nihilism, an inhuman devaluation of the respect owed to all persons, and moreover a piece of hubris, since, by definition, human beings have no access to divine intentions, whatever they may be.

The hubris is not confined to vocalizing divine intention. It also consists in hijacking scriptural tradition. The devil can always quote scripture to his use, and there is never a shortage in any faith of texts justifying the use of force. Equally, all religions contain sacred texts urging believers to treat human beings decently. Some may be more universalistic in these claims than others. Some may confine the duties of benevolence to fellow believers, while others may extend these duties to the whole of humankind. But whatever the ambit of their moral concern, all religious teaching offers some resistance to the idea that it is justifiable to kill or abuse other human beings. This resistance may range from outright condemnation to qualified justification as a last resort. A nihilist use of religious doctrine is one that perverts the doctrine into a justification for inhuman deeds and ignores any part of the doctrine which is resistant to its violent purposes. The nihilism here engages in a characteristic inversion: adjusting religious doctrine to rationalize the terrorist goal, rather than subjecting it to the genuine interrogation of true faith.
It is unnecessary here to document the extent to which Al Qaeda has exploited and distorted the true faith of Islam. To take but one example, the tradition of jihad, which refers to the obligation of the believer to struggle against inner weakness and corruption, has been distorted into an obligation to wage war against Jews and Americans. In the hands of Osama bin Laden, the specifically religious and inner-directed content of jihad has been emptied out and replaced by a doctrine justifying acts of terror. This type of religious justification dramatically amplifies the political impact of terrorist actions. When Al Qaeda strikes, it can claim that it acts on behalf of a billion Muslims. This may be a lie, but it is an influential one nonetheless.

Appropriating religious doctrine in this way also enables the group to offer potential recruits the promise of martyrdom. Immortality complicates the relationship between violent means and political ends, for the promise of eternal life has the effect of making it a secondary matter to the suicide bomber whether or not the act achieves anything political at all. What matters most is securing entry into Paradise. Here political violence becomes subservient not to a political end but to a personal one.

Once violent means cease to serve determinate political ends, they take on a life of their own. When personal immortality becomes the goal, the terrorists cease to think like political actors, susceptible to rational calculation of effect, and begin to act like fanatics.

It is not easy to turn human beings into fanatics. In order to do so, terrorist groups that use suicide bombers have to create a cult of death and sacrifice, anchored in powerful languages of belief. Osama bin Laden used an interview with an American journalist in May 1998 in Afghanistan to justify terrorism in the language of faith:

The terrorism we practice is of the commendable kind for it is directed at the tyrants and the aggressors and the enemies of Allah, the tyrants, the traitors who commit acts of treason against their own countries and their own faith and their own prophet and their own nation.
What is noticeable here is the use of religion not just to justify killing the infidel but to override the much more serious taboo against killing fellow believers. The function of nihilism here is to recast real, living members of the Islamic faith as traitors deserving death. Nihilism takes the form of nullifying the human reality of people and turning them into targets.

Hijacking the jihad traditions of the faith is essential to creating the conditions for nihilist violence. The cult needs the mysteries of faith and the promise of the afterlife in order to prevent individual terrorists from asking whether their act contributes usefully to a discernible political end. Once the capacity to ask this question is lost, death becomes an end in itself, the doorway to Paradise. Repeated political failure becomes an irrelevant distraction. What matters is not achieving anything political but earning eternal life.

To the degree that any political goal remains, it ceases to be the attainment of a real objective—such as self-determination—and is deformed into a desire to humiliate, shame, degrade, and kill. It is enough to destroy lives; enough to humiliate the other side, enough to cause panic and fear, and as long as these gratifications are evident, it need not matter that your cause has not been advanced at all.

The promise of eternal life, therefore, can be seen as an ingenious solution to the problem of sustaining the motivation of a terrorist cell in the face of failure. As we have already seen, terrorist actions rarely secure the weak the victory they are seeking, and while violence offers reliable satisfactions, a career of violence is likely to be nasty, brutish, and short. Once immortality is on offer, political failure in the here and now ceases to matter. Once it no longer matters, a terror campaign is not easily defeated, since recurrent failure will not discourage or deter it. This is how, as means come to be severed from realistic ends, terrorism becomes a way of life.

This should also explain why it is a mistake to view Al Qaeda’s assassins as warriors in the cause of freedom for the Palestinians and humiliated Muslims around the world. The reality is otherwise: their goals are less political than apocalyptic, secur-
ing immortality for themselves while calling down a mighty malediction on the Great Satan. Goals that are political can be engaged politically. Apocalyptic goals, on the other hand, are impossible to negotiate with. They can only be fought by force of arms.

Terrorist movements like Al Qaeda or Hamas are death cults, organized by their leaders to invert the normal psychological priorities of adherents, to make them think their own love of life and their scruple about taking the lives of others are forms of weakness to be overcome in favor of a worship of death as a deliverance from sin, oppression, and shame. If your own life is worth sacrificing, then by the logic of the cult the lives of others come to be worth sacrificing too.

Death cults go to some lengths to deaden and desensitize the scruples that might otherwise stay the hand of a suicide bomber. The Tamil Tiger suicide bombers, mostly female, were indoctrinated to offer their sacrifice as an act of love for the Tamil leader. Dying was reconceived as an orgasmic reunion with the leader in death. Channeling sexual desire away from life is an important process in the creation of the death cult. It harnesses erotic energies so that the martyr thinks of death as a form of erotic release. At the same time, the cult mobilizes sexual phobias in order to dehumanize potential victims. The September 11 hijackers shaved their body hair and sought to avoid all polluting contact with infidels, especially women. If we are to judge from the note left behind by one of the September 11 hijackers, Mohamed Atta, fear and loathing of women mixed with anxiety about his own sexuality formed one of the psychological sources of his hatred for what he saw as a threateningly eroticized and decadent Western culture. I am not implying that terrorism, in Atta’s case, was simply an acting out of private sexual insecurities. A man like Atta might have had rational grounds for being repelled by the overt sexuality of Western culture, at least as compared to the reserve of most Islamic societies. Sexual propriety is central to any culture’s ideas of human dignity. Even if they were mistaken about Western society, their loathing of Western sexuality helped to drive them to terrorist acts. The point here is not psychological but ethical: if you can find eroti-
cally charged grounds to loathe Western society—and this man did—it becomes a great deal easier to be indifferent to the fate of the innocent civilians you condemn to death.

Sexual phobias and hatreds are a powerful source of nihilism, particularly of the idea that victims are unworthy of moral concern. This phobic sense of pollution, in the case of Mohamed Atta, was reinforced by a particular reading of the Qur’an, emphasizing that moral duties are owed only to fellow believers, not to infidels. The Qur’an, of course, admits of many readings, some endorsing a universalistic conception of moral duty, others restricting full moral concern to the faithful alone. It is true that the terrorists hijacked Islam, but any religious doctrine can be hijacked in the same way. Religious traditions are always polyvalent: they can be interpreted in a wide variety of ways. No doctrine has any power in itself to withstand moral mutilation by wicked people. All that can ever stand in the way are the living convictions of fellow believers and the institutions that guard the faith, and in this particular case they were silent. Authoritative voices in the Islamic world who might have condemned the deformation of the idea of jihad into a justification for terror did not do so in time. In the absence of such condemnations, the perpetrators of September 11 saw no morally problematic aspects to their acts.

A key feature of nihilism, therefore, is the redescription of intended victims as inferior creatures to be brushed aside on the path to a higher goal. Phobic sexual dislikes, religious fanaticism, and, finally, political ideology can all contribute to a nihilistic deadening of moral scruple. In the twentieth century, the language of the class enemy in Stalin’s Russia, like the fascist language of the Jew as vermin, served as a powerful justification for exterminatory violence. In the twenty-first century, it is religion that has been made the unwilling accomplice of nihilism.

II

If terrorism is armed nihilism, its adherents require, not just a general theory of why human beings who stand in the way do not matter, but a specific theory about why killing civilians is
justified. All terrorist campaigns have to discredit the idea of civilian innocence. Bin Laden’s statements take explicit aim at such ideas:

Our mothers and daughters and sons are slaughtered every day with the approval of America and its support. And, while America blocks the entry of weapons into Islamic countries, it provides the Israelis with a continuous supply of arms allowing them thus to kill and massacre more Muslims. Your religion does not forbid you from committing such acts, so you have no right to object to any response or retaliation that reciprocates your actions.16

Likewise, the Palestinian suicide bombers are taught to view Israeli passengers on a municipal bus not as innocent bystanders but as accomplices in the crime of occupation. If this is not enough, then standard varieties of anti-Semitism, which have semiofficial standing in the politics of the Arab world, are enlisted to further dehumanize the intended victims.17

In Algeria, the FLN (Front for National Liberation) maintained that French civilians were legitimate targets because they were beneficiaries of French colonial oppression. In South Africa, white civilians were gunned down in churches and public squares on the grounds that they were complicit in the evil of apartheid.18

Preventing a war on terror from becoming nihilistic means, first of all, insisting that counterterror forces observe the distinction that terrorists sweep away, namely, between innocent civilians and legitimate military targets. A war on terror that does not struggle to hold the line against the temptation to become as indiscriminate as the terrorists will surely lose both its political and its moral legitimacy.

But let us admit just how difficult it is to maintain discrimination. Civilian complicity makes civilian immunity a complex affair. In South Africa, all whites were complicit beneficiaries of apartheid, but there is a material difference between working for the police and military forces and merely voting for the regime, or between being white and actively giving apartheid your sup-
port. Many whites, after all, opposed apartheid, and it is doubt-
ful that the system would have fallen when it did had the regime
not lost its own basis of support. In moral terms, it seems wrong
to accuse someone of complicity on the basis of attributes rather
than conduct, to condemn whole categories of people—white
South Africans, Israelis, or any other group—on the basis that
they derive benefit from some injustice, rather than on their par-
ticular actions as individuals.

On the other hand, where civilians take a direct personal part
in counterterror actions—as, for example, when the *pieds noirs*
in French Algeria armed themselves and carried out preemptive
or revenge attacks against Algerian fedayeen, or when Israeli
settlers do the same in the occupied territories, passing from de-
fense of their settlements to active combat operations against
Palestinian fighters or their civilian supporters—they deserve to
lose their immunity from military attack. They become legiti-
mate military targets, but their families do not.

Where terrorists hide in refugee camps, conceal their weapons
in civilian areas, and attempt to pass themselves off as civilians, a counterterror operation may be tempted
to ignore civilian immunity altogether. It may seem necessary to
penalize the population, to indefinitely detain young males, to
demolish the houses of those who lend support or refuge to ter-
rorist groups, or to lock down women and children and prevent
normal movement and economic activity. The use of Israeli mili-
tary bulldozers to destroy civilian housing in the Jenin refugee
camp was a response to the use of civilian dwellings as ambush
points. Civilian complicity may also lead military authorities
to relax fire discipline among soldiers charged with controlling
civilian populations or to relax targeting discrimination when
striking terrorist leaders hiding among civilians. Selective assas-
sination of terrorist leaders has been a feature of the Israeli war
against Palestinian terror, and while it is justified as a lesser evil,
there is evidence that civilians with no direct connection to ter-
rorist groups have been killed when these leaders are struck. Is-
raeli authorities have expressed regret for these mistakes and
have argued that under the laws of armed conflict they are not
liable, ethically, for unintended collateral damage effects of a targeted assassination policy. But assassination can be justified only if civilian immunity can be observed.

The risk of such tactics is that instead of isolating the terrorists, you increase their support. As you escalate repressive measures, and they fail, exposing your forces to more resistance, your troops will come to view the population with hatred, thus increasing the chances of abuse and atrocity. Gradually, they come to view the entire population as the enemy and the civilian-combatant distinction is entirely obliterated. This is an especial danger when the two peoples at war come from different religions and races. Then it becomes all too easy for the counterterror agents of a democratic state to live inside a schizophrenic moral duality: treating their own fellow citizens and their own families as equals, while treating the occupied population as things. This duality in fact shelters counterterrorists from the nihilism that is gradually taking them over in their professional life. Faced with the evidence of their own inhumanity on the job, they take refuge in their humanity as parents, neighbors, friends, and citizens. On the job, however, the counterterrorist will gravitate toward the same nihilistic pole as does his terrorist opponent: everyone is an enemy, everyone a legitimate target. When both sides reach this abyss, a terror and counterterror campaign can easily become a free-fire zone.

But free fire is unlikely to produce victory for either side. The terrorists, even if they become indiscriminate, will not have the force to prevail against an armed state, and free fire by counterterrorist forces, unless it proceeds to the extermination of the entire resistant population, cannot hold them under control. Taking the gloves off may appear to promise victory; it usually delivers only a bloody stalemate.

Nihilism—which is the blunt name for taking the gloves off—holds real dangers for both sides. When a democratic state licenses all means to repress a terrorist group, it may only play into the hands of its enemy. Some terrorist groups deliberately seek to draw reprisals upon themselves in order to radicalize their own population. As the state’s repression increases, the ter-
rorists respond by tightening their screws on their base of support, replacing a political relation to their own side with one of unvarnished tyranny, killing or intimidating anyone who questions whether the costs of the campaign are outweighing the gains. Populations that once supported armed struggle for reasons of conviction become trapped either in fanaticism or in complicit silence. In the process, political regulation of terrorist groups by their community at large becomes impossible. Moderate voices who might persuade a community to withdraw their support from terror are silenced. In place of a properly political culture, in which groups and interests compete for leadership, a people represented by suicide bombers ceases to be a political community at all and becomes a cult, with all the attendant hysteria, intimidation, and fear. This is the process by which nihilism leads to a war without end.

In such a terrorist cult, many praiseworthy moral virtues are inverted, so that they serve not life but death. Terrorist groups typically expropriate the virtues of the young—their courage, their headstrong disregard for consequences, their burning desire to establish their own significance—and use these to create an army of the doomed. In this way, violence becomes a career, a way of life that leads only to death.

Once violence becomes part of a community death cult, the only rational response by a state under attack must be to eliminate the enemy one by one, either by capture and lifelong imprisonment or by execution. Those for whom violence has become the driving rationale of conduct cannot be convinced to desist. They are in a deathly embrace with what they do, and argument cannot reach them. Nor can failure. It counts for nothing that violence fails to achieve their political objective because such achievement has long since ceased to be the test of their effectiveness. It is redemption they are after, and they seek death sure that they have attained it. They have nothing to negotiate for, and we have nothing to gain by negotiating with them. They will take gestures of conciliation as weakness and our desire to replace violence with dialogue as contemptible naiveté. To say we are at war with Al Qaeda and suicide bombers in general is
to say that political dialogue is at an end. We have nothing to say to them nor they to us. Either we prevail or they do, and force must be the arbiter.

This may be so, but it does not invalidate the necessity of balancing purely military responses to terror with a political strategy that redresses the injustices that terrorists exploit. Not all of those who support terrorist acts are in love with violence or deaf to conciliation. Some Palestinians may support suicide bombers, not because they endorse human sacrifice, but because they sincerely believe that such sacrifice, however horrific, is the only way to make the injustice of the Palestinian situation plain to the world. Such persons might indeed abjure violence if their political demands for statehood and dignity were met. A war on terror that fails to make political gestures to this community will fail. The political gestures required need to be more than tokens: they have to offer moderates a political horizon, a possible political alternative to a community captured by the logic of terror.

The need to respond politically—and not just militarily—is more than a matter of pragmatics. It relates to the very identity of liberal democracy. Liberal democracy proclaims justice as its rule of life, and because it does so, it cannot remain true to itself if it indefinitely denies a claim to justice—in this case, statehood for the Palestinians. Yet recognizing a claim is not possible when a gun is held to your head. Palestinian terrorism has set back the cause it serves precisely because true recognition of a moral claim is possible only when antagonists meet in a condition of freedom, and people under attack are not free. Israel will never negotiate under duress, but it cannot survive without negotiation, without withdrawal from the occupied territories and the emergence of a viable, contiguous Palestinian state. When suicide bombing has been beaten, when the other side runs out of martyrs, when Palestinians themselves recognize the political futility of violence, then politics—negotiation and compromise—will have to resume. A liberal democracy cannot maintain its own identity in freedom if it rules others without their consent.
III

The larger question is how liberal democracies elsewhere, faced with nihilistic violence, can prevent their own security agents from descending into the very nihilistic trap that ensnares the terrorists. One example will make clear how difficult this can be. During the Vietnam War, the CIA engaged in Operation Phoenix, a counterinsurgency program whose purpose was to convert, neutralize, or kill the political cadres infiltrated into South Vietnam by the northern forces. The program resulted in the deaths of thousands of these cadres, who were often labeled as terrorists. The program did not stop the North Vietnamese from gaining control of the South, but it did leave many Americans, and many congressmen, disgusted that their government could authorize covert assassination of foreign nationals. Revelations about Operation Phoenix, together with disclosures of attempts by the CIA to assassinate foreign leaders including Salvador Allende, Fidel Castro, and Rafael Trujillo, led to a congressional investigation, under Senator Frank Church, that recommended a ban on assassination. President Ford responded with an executive order banning the practice. The ban endures where the United States is at peace, but where it is at war, as with Al Qaeda, the ban has been lifted. Targeted assassinations of enemy combatants have occurred, most notably in the missile strike on a car carrying alleged enemy combatants in Yemen.

Assassination can be a justified lesser evil, but only against bona fide terrorist targets actively engaged in hostilities against a democratic state, and even then only under certain conditions: (a) where less violent alternatives, like arrest and capture, endanger U.S. personnel or civilians; (b) where information exists that the targets in question are planning imminent attacks that cannot be stopped in any other way; and (c) where all reasonable precautions are taken to minimize collateral damage and civilian harms.

Assassination may be a justified lesser evil, but regulating it is not easy. Previous attempts to do so illustrate the unintended ironies that accompany sincerely intended attempts to control
the conduct of a counterterror campaign. The original ban, instituted in the 1970s, formed part of a larger attempt to bring the CIA back under congressional and executive control. Some former agents have argued that the new systems of regulation and oversight led, inadvertently, to an institutional culture of risk avoidance which, over time, began to damage the effectiveness of the institution as an intelligence gatherer. Because infiltrating terrorist organizations, especially in the Middle East, is a dangerous business, the CIA chose to rely instead on signals intelligence and failed to develop the human intelligence that might have provided early warning of the September 11 catastrophe.22

This account of the unintended consequences of regulations needs to be taken with a grain of salt, since it is obvious that agents who relish extralegal methods would have an interest in promoting their resumption. Still, in a consideration of the lesser evils of a counterterror war, the possibility that overregulating intelligence agencies may make them overcautious needs to be taken into account. A balance needs to be struck between holding agents accountable to their superiors and to elected officials and tying them down so that they cannot take the calculated risks necessary for the public safety. These risks should not include assassination of civilian leaders in peacetime, but they might include targeted killing of terrorist combatants, where no feasible alternative existed. Intelligence agents might also be authorized to make payments to dubious characters and to use deception and entrapment to secure intelligence, all under the cover of official denial. There is no alternative to secrecy in intelligence operations, but this need not preclude administrative and legislative review in camera. The U.S. Foreign Intelligence Surveillance Court, a secret court composed of federal judges who hear applications for wiretaps on foreign sources in the United States, provides an example of the ways in which covert activity with risks of rights violations can be made subject to judicial review.23

The larger concern, when political leaders are regulating their own warriors in a war against terror, is to guard against so alienating them that they come to have greater loyalty to each other
than to the institutions they are charged to protect. This conflict of loyalties arises because a liberal democratic society will, by its nature, impose some limitations on what intelligence and counterterror squads can do: restrictions on search and seizure, on clandestine operations, on torture and the use of deadly force. These restrictions are problematic because they increase risk to our own side while not applying to the enemy. So counterterror forces will come to believe that they are being asked to fight with one hand tied behind their back.

This in turn presents civilian leaders with a dilemma: either they give way to their police and allow them to take the gloves off, risking acts of violence that will disgrace the political order they are seeking to defend, or they stand up to the police, refuse them the extra powers they want, and then watch the police taking the law into their own hands or losing the war to the terrorists.

Since the latter is unthinkable, democratic politicians have incentives to take the gloves off too. They need results from their security services, and in the pressure of the moment, they may not care overmuch about how these results are obtained. A culture of silent complicity may develop between civilian political leaders and their security chiefs, in which both sides know that extralegal means are being used but each has an interest in keeping quiet about it. In this way, the clear constitutional duty of civilian leaders to maintain executive control over security services can be subverted and replaced by a complicit bargain in which politicians keep silent for the security forces and the security forces keep silent for the politicians.

Something like this seems to have happened in French Algeria in the 1950s. The democratic government in Paris publicly denied that it was using torture to defeat the FLN, while privately ministers were perfectly aware that it was going on. This set up a perverse relationship with the security forces who, because the politicians had not been truthful with the public, were in a position to blackmail them with threatened disclosure of the facts. Both sides, the political elite and the security forces, were then locked together, not in an appropriately constitutional
relation of supervision, but in a blackmailer’s pact of silence. The silence was about the existence of torture, but also about its purpose, which was to cow and break the political will of the Algerian population as a whole. This is the way with torture: it is originally justified as a lesser evil, as a regrettable necessity in the struggle to extract timely information to prevent greater harms, and slowly but surely it becomes a standard technique, explicitly used to humiliate, terrify, degrade, and subdue entire populations.

IV

Torture, by which I mean the deliberate infliction of physical cruelty and pain in order to extract information, brings together all of the dilemmas that a liberal society has to face in a war on terror. For here is the problem of nihilism in a form different from the ones we have been discussing so far: where believing that majoritarian interest—in this case the survival of democratic society itself—could legitimize committing an ultimate violation to human dignity. Nobody denies that the physical torture of individuals amounts to an ultimate violation. There is no doubt about the moral facts. The question is whether democratic survival or national security could override the overwhelming claim that these facts usually make upon the allegiance of a liberal democracy. Those who defend torture would insist that their choice is not in fact nihilistic—denying the ultimate value of human beings—but rather motivated by a value-filled concern to save innocent human life. Those who insist that torture is an ultimate form of nihilism believe that a majoritarian justification for torture amounts to a failure to understand what is special, inviolable, and worthy of ultimate respect in a human being.

There is not much doubt that liberal democracy’s very history and identity is tied up in an absolute prohibition of torture. The elimination of torture from the penal process, beginning with Voltaire’s campaign on behalf of Calas and Beccaria’s great Enlightenment Essay on Crimes and Punishments, has always been
seen as an intrinsic feature of the story of European liberty itself.25 In this story, constitutional freedoms matter positively because they enable men and women to choose the lives they want to live, and matter negatively because they help eliminate needless and unjustifiable cruelty from the exercise of government.26 Liberal democracy stands against torture because it stands against any unlimited use of public authority against human beings, and torture is the most unlimited, the most unbridled form of power that one person can exercise against another. Certainly the United Nations Convention on Torture—to which all liberal democracies, including the United States, are signatories—forbids it under any circumstances and does not allow the prohibition to be derogated even in conditions of national emergency.27 Yet the matter does not end here. There are those who find it peculiar that liberal democracy proscribes torture and cruel and unusual punishment, but not lawful killing in war. How can one object to the torture of persons to secure valuable information for reasons of state, and not object to killing them? Both could simply be regarded as acceptable lesser evils, forced on unwilling liberal democracies by the exigencies of their own survival. But the cases are not the same. A liberal society that would not defend itself by force of arms might perish, while a liberal society that refused to torture is less likely to jeopardize its collective survival. Besides, there is a moral difference between killing a fellow combatant, in conformity to the laws of war, and torturing a person. The first takes a life; the second abuses one. It seems more legitimate to ask a citizen to defend a state by force of arms and, if necessary, to kill in self-defense or to secure a military objective, than it does to ask him to inflict degrading pain face-to-face. On this reading of a democratic moral identity, it may be legitimate to kill in self-defense, but not to engage in cruelty. Another way to seize the distinction between torture and killing in combat would be to observe that in combat pain or death is inflicted on those whose job it is to do the same. In the act of torture, pain and possible death are inflicted on a person who is disarmed and helpless.
This is a relevant distinction, but it fails to capture the potential dangerousness of disarmed and helpless subjects. The knowledge they possess may pose a mortal danger, if not to the survival of democratic society itself, then at least to large numbers of its citizens. Because this is so, many democracies nominally committed against torture have felt themselves compelled to torture in the name of necessity and national security. The French in Algeria, the Israelis in the occupied territories, and now American CIA and Special Forces interrogators in the war on terror have all been accused of torture. As for the last of these cases, there are denials that the methods involved actually constitute torture. The interrogation methods of which the Americans have been accused since 9/11 are held to include nothing worse than sleep deprivation, permanent light or permanent darkness, disorienting noise, and isolation.28 If this were true, if interrogation remained free of physical duress or cruelty, it would amount to coercion, rather than torture, and there might be a lesser evil justification for it.29 The grounds would be that isolation and disorientation that stopped short of physical or psychological abuse might gain the authorities vital information about ongoing terrorist operations. Yet there have been unexplained deaths in captivity in interrogation centers, and because the authorities are not disclosing anything, we simply do not know what is happening to the numberless captives taken either in Afghanistan, in antiterrorist sweeps in Pakistan, or in the postconflict operations in Iraq. In addition, there are allegations of rendition, the handing over of terrorist suspects to intelligence officials in Egypt, Jordan, Morocco, and other countries where both media and judicial oversight of interrogation methods is likely to be cursory.30 Rendition, it need hardly be said, is a violation of the Convention on Torture, which outlaws extradition to any country where torture is suspected to be a state practice.31 Given the uncertainty about the facts, it would seem essential for Congress to insist on the right to tour detention facilities, to hold interviews with detainees in camera, and to disclose the information they get in closed session, so as to keep interrogation techniques under democratic scrutiny. As I have
already argued, persons detained by a democracy ought not to forgo all due process rights, whatever their nationality, their conduct, or the circumstances of their capture, either on the field of battle or in a noncombatant setting. If a democracy wishes to keep actual physical torture out of its interrogation rooms, it has to grant detainees access to counsel and the possibility of judicial review. While it may compromise interrogations if detainees secure access to counsel immediately, they must have access within a short period of time. At all times, the identities and whereabouts of detainees must be available to judges and legislators, in camera if need be.

Subjecting detention to every possible form of legislative and judicial scrutiny is one way to prevent legitimate interrogation, involving isolation and some nonphysical stress, from turning into outright torture. But it has been argued that keeping to this line is bound to be futile in so-called ticking bomb cases, where physical torture might seem to be the only way to extract information necessary to save innocent civilians from imminent attack. In these cases, majoritarian interest would seem to trump rights and dignity claims. The temptation to use torture in such a case might be so strong, Alan Dershowitz has argued, that, whatever we might think about torture in the abstract, the pressure to use it in cases of urgent necessity might be overwhelming. The issue then becomes not whether torture can be prevented, but whether it can be regulated. Dershowitz suggests that instead of trying to maintain an unrealistic ban on torture, the United States should regulate it through the judicial process. Police authorities needing to torture a suspect would apply to a judge for a “torture warrant” that would specify the individual being tortured and would set limits to the type and duration of pain allowed. Limitations on the admissibility of evidence extracted under duress would continue to apply, but the information could be used to prevent impending attacks. Anyone found torturing outside the terms and conditions of the warrant would be guilty of a criminal offense.

The legalization of torture, under the formula suggested by Dershowitz, seeks to prevent it from becoming a first resort of
interrogators in terrorist and criminal cases as well. The proposal seeks to bring the rule of law into the interrogation room and keep it there. All this is well-intentioned, but as an exercise in the lesser evil it seems likely to lead to the greater. Legalization of physical force in interrogation will hasten the process by which it becomes routine. The problem with torture is not just that it gets out of control, not just that it becomes lawless. What is wrong with torture is that it inflicts irremediable harm on both the torturer and the prisoner. It violates basic commitments to human dignity, and this is the core value that a war on terror, waged by a democratic state, should not sacrifice, even under threat of imminent attack.

It might be argued that such dignity commitments are a luxury when a state is fighting for its life. But the Israeli case shows that a democratic state engaged in a war with terror can still maintain these commitments. The Israeli Supreme Court has ruled on the issue of torture, arguing that extreme shaking of suspects, and holding them in chairs, tipped forward, for long periods of time, are violations of dignity that cannot be allowed even in a state under threat. The Israeli court also ruled that no regulation of the practice could make it acceptable. As for the defense of necessity, the court accepted that there might be cases where an interrogator was genuinely convinced that physical duress was the only way to secure information to save life. If an interrogator violated the rules and engaged in torture, however, the court was prepared to accept necessity as a plea in mitigation, not as a justification or an excuse. In this formulation, the court sought to reconcile an absolute prohibition against torture with an acknowledgment that, in rare and extreme cases, a reputable interrogator might find physical duress unavoidable. It accepted that there had been cases, in Israeli history, where physical methods of interrogation had actually saved lives.

Torture is probably the hardest case in the ethics of the lesser evil. A clear prohibition erected in the name of human dignity comes up against a utilitarian case also grounded in a dignity claim, namely, the protection of innocent lives. In adjudicating this conflict, we must stress, first, that while conscientious peo-
ple may disagree as to whether torture might be admissible in cases of necessity, all will agree that torture can never be justified as a general practice. The problem lies in identifying the justifying exceptions and defining what forms of duress stop short of absolute degradation of an interrogation subject. Permissible duress might include forms of sleep deprivation that do not result in harm to mental or physical health, and disinformation that causes stress. Impermissible duress would include any physical coercion or abuse, any involuntary use of drugs or serums, and deprivation of basic food, water, medicine, and rest necessary for survival, together with permanent denial of access to counsel.

As with all attempts to distinguish lesser from greater evils, this definition of the line between permissible and impermissible interrogation, between coercion and torture, will strike some as permitting too little and others as allowing too much. Those who think it allows too much probably underestimate just how important accurate and timely information can be in a war on terror, and just how resistant terrorist suspects can be. Those who think this distinction between coercion and torture allows too little will want to know why the line should be drawn at physical abuse in cases where extreme physical duress might save lives. Here the case to be made would be both practical and ethical. On the practical side, there is some evidence that physical duress is unnecessary where interrogators are skilled and persistent. There is also the fact that those who are subjected to physical torture, when not actually broken psychologically, usually conceive undying hatred for their torturers. Members of the Muslim Brotherhood, tortured in the aftermath of the assassination of Anwar Sadat, conceived just such a hatred, both for the Egyptian regime and for its strategic ally, America. One such victim of torture was Osama bin Laden’s second in command.\textsuperscript{\text{34}} As a practical matter, torture may help, if not to create terrorists, then to harden them in their hostility to the state responsible for their suffering.

One way around this problem, obviously, is to dispose of the tortured, in order to prevent their returning as threats. Once tor-
ture was routinized in Chile and Argentina in the 1970s, it was soon followed by disappearances, as the military sought to dispose of the evidence of torture by killing their victims. In Argentina, thousands of torture victims were thrown, sometimes dead, sometimes alive, from planes into the ocean. As a practical matter, therefore, once a state begins to torture, it soon finds itself required to murder, in order to eliminate the problem of releasing hardened and embittered enemies into the general population. Once torture becomes a state practice, it entrains further consequences that can poison the moral reputation and political legitimacy of a state.

A further problem with physical torture is that it inflicts damage on those who perpetrate it as well as those who are forced to endure it. Any liberal democratic citizen who supports the physical torture of terrorist suspects in ticking bomb cases is required to accept responsibility for the psychological damage done, not only to a foreign victim, but to a fellow citizen, the interrogator. Torture exposes agents of a democratic state to ultimate moral hazard. The most plausible case for an absolute ban on physical torture (as opposed to coercion) in every circumstance is related precisely to this issue of moral hazard. No one should have to decide when torture is or is not justified, and no one should be ordered to carry it out. An absolute prohibition is legitimate because in practice such a prohibition relieves a state’s public servants from the burden of making intolerable choices, ones that inflict irremediable harm both on our enemies and on themselves, on those charged with our defense.

If we are to understand the moral hazard at stake for everyone involved, it is worth listening to the testimony of one of torture’s victims. Jean Amery, a Belgian resistant, was arrested in Brussels in 1943 for distributing tracts in German urging soldiers of the German occupation to desert. He was tortured by the SS in a Belgian jail in 1943, before being shipped off to Auschwitz. Amery’s hands were bound behind his back and he was suspended by a hook from the ceiling until his arms were pulled out of their sockets. While this was occurring, his captors beat him with a whip, seeking to extract information about his companions in
the Resistance. Amery survived this ordeal, but in his account of it, written twenty years later, he said that a tortured man always stays tortured.36 The experience leaves scars that no state of necessity or social peril can justify. Indeed, Amery argued that what was worse than the memory of the pain was the moral shock of seeing other human beings reducing him to a carcass of meat. The experience destroyed all his remaining social trust: “someone who has been tortured is never capable of being at home in the world again.”37 Amery was not able to write about his experiences in the SS detention center or in Auschwitz until twenty years later, and like his friend and fellow inmate at Auschwitz, Primo Levi, he ended his life by suicide.38 It would be impertinent to attribute so private a decision to so public a calamity as torture, but, equally, we cannot think of Amery’s fate without at least considering that he was right about the experience: torture destroyed, once and for all, the trust necessary for living among fellow human beings.

Amery also insisted that torture should be viewed not in individual terms as the psychosexual aberration of particular torturers but as a key to the identity of the society responsible for it. He argued that torture was not an incidental feature of the Third Reich but the essence of its view of human beings. By extension, the same premise is true of Saddam Hussein’s Iraq or Burma or North Korea. For these societies, the practice of torture is definitional of their very identity as forms of state power. This idea helps us to see why torture should remain anathema to a liberal democracy and should never be regulated, countenanced, or covertly accepted in a war on terror. For torture, when committed by a state, expresses the state’s ultimate view that human beings are expendable. This view is antithetical to the spirit of any constitutional society whose raison d’être is the control of violence and coercion in the name of human dignity and freedom.

We should have faith in this constitutional identity. It is all that we have to resist the temptations of nihilism, but it is not nothing. It is the paramount duty of political leaders in a democracy under attack to keep the forces of order intently focused on the political requirement of maintaining legitimacy. The only
cure for nihilism is for liberal democratic societies—their electorates, their judiciary, and their political leadership—to insist that force is legitimate only to the degree that it serves defensible political goals. This implies a constant exercise of due diligence: strict observance of rules of engagement regarding the use of deadly force and the avoidance of collateral damage. Democracies must enforce such rules by dismissing from service any of the carnivores who disgrace the society they are charged to protect.

We should remember, in fact, that liberal democracy has been crafted over centuries precisely in order to combat the temptations of nihilism, to prevent violence from becoming an end in itself. Thus terrorism does not present us with a distinctively new temptation. This is what our institutions were designed for, back in the seventeenth century: to regulate evil means and control evil people. The chief ethical challenge with relation to terrorism is relatively simple—to discharge duties to those who have violated their duties to us. We have to do this because we are fighting a war whose essential prize is preserving the identity of liberal society itself and preventing it from becoming what terrorists believe it to be. Terrorists seek to strip off the mask of law to reveal the nihilist heart of coercion within, and we have to show ourselves and the populations whose loyalty we seek that the rule of law is not a mask but the true image of our nature.