

A Response to a Response:

A Critique of Narveson's Proposal of How to Answer Terrorism

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In his essay *Terrorism and Morality*,^[39] Jan Narveson argues that terrorism is in almost all circumstances never morally justified, although it is perhaps occasionally forgivable. He finds this conclusion on the ethical theory of contractarianism, which leads him to the subsequent conclusion that because the terrorist has broken the social contract, he has returned to the state of nature and can be treated in a similar manner to that in which he has treated his victims. In this essay, I will first outline Narveson's criteria regarding the unjustifiability of terrorism. Second, I will outline his proposed response to terrorism. Third, I will then use Narveson's own criteria to demonstrate that his response to terrorism is itself unjustifiable and that it essentially condones state terrorism. Lastly, I will briefly examine a fundamental difficulty with the contractarian response to terrorism that Narveson proposes.

Narveson argues that even if there is just cause on the side of the terrorist, the violent means that he uses are almost never acceptable. Narveson gives us three criteria to determine if the methodology of terrorism is ever justified even when there is just cause on the side of the terrorist. These criteria are: necessity, efficacy and permissibility. Necessity is to ask whether there are other means available (besides the drastic measure of violence) that have not yet been explored. Efficacy is to ask whether the proposed means will result in the desired ends: will terrorism achieve the results that the terrorists want in an effective manner. Finally, permissibility is to ask even if the first two criteria have been met, whether or not terrorism should be used as an option. Is it morally permissible?

Narveson dismisses the necessity and efficacy of terrorism in the context of democratic and non-democratic states, which I will explain in order. First, the democratic state gives the majority the power of decision over issues that have been fairly presented and heard. In this context, the criterion of necessity is not fulfilled, for the terrorist has other means to be heard by the society besides the killing of innocent people. If the terrorist has been heard and his claim has been rejected by the majority, then he has no recourse but to accept this opinion. If he does not accept this rejection and responds to it with violence, this then would lead to the deplorable state in which anyone could use violence to enforce a minority opinion. As Narveson states, this is "surely an intolerable state of things for persons concerned to pursue their chosen ways of life."^[40] Hence, the criterion of necessity is not fulfilled in a democratic state.

In the case of the non-democratic state, the avenue of a fair hearing is not available and so violent actions could be justified as being necessary. However, they are unlikely to be effective in obtaining the desired results, as the killing of innocent people will not create support for the movement and this support is necessary if they are to hold onto any gains that they make (Narveson is basing this argument on a small group of terrorist involved in insurrection[41]). Consequently, any violent action taken will be taken in vain (for it will not succeed due to the alienation of the citizens) and any lost life will be simply wasted. Hence, an act of terrorism would be ineffective and should not be condoned.

However, what if it were both necessary and efficient to undertake an act of terrorism? Would it even then be morally permissible? Here Narveson appears to say that in some extreme cases, terrorism would have to be granted the logical status of being morally permissible. He bases this on a utilitarian calculation of numbers. If, for example, the killing of 10 innocent people led to the liberation of 10,000 people from slavery, the proper course of action would appear to be to kill the 10 people. However, Narveson states, "terrorism may still be a moral non-starter,"[42]for these situations are merely logically possible, and that "we need not grant that any of the actual terrorists we know anything about have such a case." [43]In other words, on a practical level, even though this possibility exists, no such case presently exists or, in all likelihood, will never exist. [44] With these three criteria, Narveson has given what he believes to be a condemnation of terrorism, as it cannot meet all three or in all likelihood, never will.

With this explanation of the unjustifiability of terrorism done, Narveson then provides a brief answer to how we ought to respond to terrorism, and this is the heart of my essay. A terrorist does not fit into the moral world, "for one who uses unlimited violence, all bets are off, [and] we are in the unlimited Hobbesian condition, and in principle there is nothing we may not do to him." [45] Narveson means that when a terrorist uses methods that are outside the convention that has been agreed upon by a society, he has broken this contract and is no longer under its protection. We have every right to treat him as he has treated us, although Narveson does add the caveat we must restrict ourselves from harming innocent people.

However, Narveson's version of innocent people is not as inclusive as others might take it to be. He claims that we may threaten to kill any terrorists that another terrorist is trying to rescue by threatening innocent people himself. If this terrorist kills some of these innocent people, then we ought to kill his fellow terrorists. When we are threatened, then we threaten those who are not innocent. If some are killed, then we respond in kind, with the goal of deterring further attacks. Narveson does not shy away from extending this to the families, friends, and close associates of a terrorist. If there is a loss of life in a terrorist attack, then we may in return threaten and kill those that have (apparently) aided and abetted the terrorist in order to make him desist from his actions (Narveson does not explicitly state it like this, but the implication is clear). Narveson argues that this does not descend to the level of professing that there are no innocents, as the terrorist affirms. He gives what he calls a "partial answer"[46]to defend this position. These people have "harboured and shielded him [the terrorist], not only tolerated and exonerated but perhaps also actively supported his nefarious activities." [47] They are not innocent in virtue of the fact that they have connections of support to the terrorist (or perhaps just connections of family). As the terrorist classifies the world as 'us vs. them', so too may we "make His People fair game as well, or at least

fairer than we have hitherto been inclined to regard them." [48] To help us digest this morally unpalatable claim, he asserts that this position would ultimately boil down to a deterring effect like nuclear weapons. Using these policies of threatening a terrorist's loved ones is not "any worse, morally, than those larger-scale deterrence policies." [49]

With Narveson's position laid out, I will now proceed to use his own criteria of necessity, efficacy and permissibility to determine if his proposed response to terrorism can be justified. First, is it necessary? Have all other options been explored? Narveson claims that because the terrorist has violated the contract a society has agreed to, he is then outside the protection of that contract and, in principle, we have the right to treat him in the same manner. If a member of the society slaps me in the face for no apparent reason (or at least not for any reason that I see as being apparent) then he has broken the contract and stepped outside of our mutual arrangement not to hit each other. The slapper is not assumed to have abandoned all of morality, but only this small segment of it and as such, according to Narveson, I have a right to respond in kind within the limits of this infraction. Because he has initiated the act, he has no right to complain about my treatment of him. However, just because I have the right to do so under Narveson's form of morality, it does not follow that I must necessarily do so (necessary in the sense that I have no other options). There are many things I may do, such as asking him why he hit me and finding perhaps that he did have what he considered a justified reason for doing so. Perhaps he had a just cause. Perhaps I am at fault in the matter after all and see my error. Even so, to hit me (even for a good reason) does seem to be an extreme act in nature and regardless, it does violate the contract. But is it necessary for me to hit him in return? It might fulfill a certain sense of vengeance or just desserts, but there are other options. I can condemn him for hitting me while still acknowledging my complicity in what caused him to hit me. I can demand that he not do so again and only then will I consider his reasons. What I am suggesting is an attempt to understand the complexity of the situation, and not merely responding with a knee jerk reaction. The right of response does not lead to the necessity of initiating said response. However, Narveson seems to be appealing more to a sense of deterrence than necessity. The implied threat that I will strike the person in return is hoped to deter him from initiating the act in the first place. I will now examine whether or not this form of response is efficient in achieving the cessation of violent behaviour towards innocents.

Let us grant that it is necessary for me to respond in kind to a terrorist. This might be the only language that he understands and anything less will be ignored. Will this kind of response achieve the desired result? Will it be efficient? If I kill the terrorist then one would think so, for he will no longer be able to threaten me. However, there will certainly be others who will come along and attempt the same things. My goal is to stop unwanted violence and deter future violence from taking place. Killing a terrorist who is currently threatening me does not necessarily deter others from initiating similar activities, for their conditions are often that they are willing to be killed for their cause.

In so saying, let me first define a kind of terrorist. There are terrorists who are in positions of destitution, despair, and anger such that they see no other choice but to take drastic measures in an attempt to rectify their situation. The situation in Chechnya is an example of this. Here is an independent people that has been subjugated to the will of the Russians since 1783. The Russians have persistently and often brutally maintained some amount of control in the region since that time.

Although the Chechens have not helped themselves through some intransigent politics, they have been killed by the tens of thousands through sloppy warfare by the Russians and hundreds of thousands have been deported forcefully during WWII.[50] For a Chechen terrorist, such as we have seen recently in the theatre in Moscow, one may honestly ask if the threatening of his family and friends would deter him. Perhaps many of them have already been killed or threatened. Perhaps others have told him that they are willing to face such a threat. Perhaps this will in fact strengthen resolve of the organization and validate their claims of the oppression that they face under the state. When the Russians invaded Chechnya on Dec 11th1994, many who were indifferent about the Russian leadership took up arms against them.

Nevertheless, Narveson claims that a threat to kill fellow terrorists who are presently in custody or a threat to kill family members would strike home with the terrorist, as "this would be a 'bargaining chip' of a kind he doesn't currently expect, because it is of his own kind." [51] It therefore runs a fair likelihood of being effective. This seems utterly naive. Granted, Narveson could be right that the first time this tactic is used, some terrorists would desist from their actions. However, as Narveson has himself stated, it is only because the terrorist does not currently expect it. When he does, that is to say, when the terrorist understands that these are the sorts of responses that will be undertaken, he will plan for them and be prepared to accept the consequences of being captured or even be willing to sacrifice his family. After all, terrorists of the nature that I have described above have already reached the limits of possible responses and are willing to give up their lives and the lives of others for what they see as a just cause.[52] Therefore, this hardly seems to be an effective method to deter terrorism. Nevertheless, one might say that the Russian policy is one of state terrorism and that the Chechens are implementing their right to treat them as being outside of the contract. I answer this by asking whether the Chechen "reprisals" have been effective. Given the state of affairs...no. Neither has the violent response that the Russians have delivered to the Chechen rebels, who they consider to be terrorists. The same could be said of the current Israeli/Palestinian conflict. Both sides feel they have the right of response due to the terrorist attacks of the other. As the death toll mounts, it is hard to see this policy as being effective in deterring either terrorism, or even violent reprisals.

But let us grant these conditions. Let us make the situation such that the nature of the reprisals is both necessary and efficient. Are they still permissible? Is this way of acting morally justified? Narveson claims that he is not descending to the level of the terrorist, as a terrorist's friends and family and associates have aided, abetted, harboured, and exonerated the terrorist of his activities. But let us extend this logic further. Cannot a terrorist claim the same thing about a taxpaying citizen in a regime who has acted unjustly towards him? This citizen might have voted for the present government, but even if he has not, he pays his taxes regularly and consequently funds the activities against which the terrorist might be fighting. Any individual working for the government (on any level) is also in a manner of speaking, involved in the policies of the government. Certainly, there are some individuals who are more directly involved than others, but is this not the case with the family members as well? Perhaps a terrorist's younger sister only knows that her brother or sister is involved in some activity that seems questionable but has no more knowledge about it than that. She might feed him dinner twice a week and provide him a bed from time to time. Is she just as guilty as

the terrorist? What of the father who stands by his son when he commits a crime? He would be guilty by association and not by acting. We might claim that the family members should have known, and therefore are liable to some form of punishment. Although a family member is more likely to be in a position to have this kind of knowledge, the same could be claimed of the taxpayer. They are directly contributing to actions taken by the government and should therefore be aware of the uses of these monies.

Here we run into the major problem of determining the guilt and innocence of the people involved in any activity. At what level are we to proclaim someone guilty? What level of involvement or knowledge must they have of the situation in order to be targeted? This is a very slippery slope that Narveson has launched us onto, even though he claims that he is not descending to the level of the terrorist. However, he has already stated that we are now outside of the moral contract that has been agreed to. If that is the case, then anything should go. Why should we limit ourselves to just the terrorist? We have the right, in principle, to do whatever is necessary to ensure our safety. Of course, this sends shivers down the spine of any individual with an intuitive sense of morality. Narveson has essentially taken the same path of the terrorist in his response to terrorism through his attempt to diminish the definition of the innocent. He is, in essence, condoning state terrorism, for this is the same procedure used by these states: expand the definition of "innocent" so one feels justified in maintaining order through force, coercion and fear. This is a very dangerous form of "justice" and "deterrence" that Narveson is proselytising.

I believe that I have sufficiently demonstrated that Narveson's own criterion for denouncing terrorism can also be used to denounce his proposed response to terrorism. There is, however, one last item of a fundamental nature that I must broach.

For Narveson, a terrorist is someone who has violated the contract agreed upon by the society, is therefore in the state of nature and can be treated as he has treated us. I see two variations of a fundamental problem with this position. First, the terrorist might be disputing the contract from the outside. That is, he might accept neither the contract that another nation has agreed upon nor the conditions that arise from the breaking of the contract (i.e. being placed in the state of nature). How then can a nation claim that a terrorist is subject to its standard of morality if it is this very standard that the terrorist rejects? This is the very issue that a terrorist can dispute. Second, even if they were a part of the contract originally, they can validly claim that the model is no longer in their best interest and now step outside of the contract until it can be resolved. Even if the entire world agrees to the rules of the contract, those that belong to the contract have the right to opt out if it is no longer in their interest to remain bound by said contract. It is therefore not possible for us to claim that those who are out of the contract must abide by the punishments doled out by breaking the same contract. This leads to the tyranny of the majority, as it will be those that have the power to enforce their contract who will dominate. Narveson has essentially claimed that those who have the contract and the force to back it up, have the right to take those measures that they feel necessary in order to preserve said contract. This seems like the very mandate of state dictatorship.

To conclude, Narveson has launched us on a slippery slope of retributive justice that is seemingly outside of any intuitive understanding of guilt. We can all now become guilty by association and are liable to be punished (or even killed) for this association. By expanding the definition of the innocent, we are in a never-ending cycle of retributive violence that strikes those that are somehow connected to the perpetrator of the initial violence, which leaves us in a 'state of terror' (or state terrorism). The contract itself is often in dispute, and although *violence is not a method to change a contract*, neither is the proposed method by Narveson a proper response to this violence. As the saying goes, an eye for an eye leaves everyone blind.

Works Cited

Narveson, Jan. "Terrorism and Morality." *Violence, Terrorism and Justice*. Eds. R.G. Frey and Christopher W. Morris. Cambridge: Cambridge University Press. 1991.

Panico, Christopher. *Conflicts in the Caucasus: Russia's War in Chechnya*. London: Research Institute for the Study of Conflict and Terrorism. 1995.