Terrorism and the social contract

NATAN SZNAIDER

Academic College of Tel-Aviv-Yaffo

I Hobbes and the Founding of Modern Evil

The only way to erect such a common power, as may be able to defend them from the invasion of foreigners, and the injuries of one another, and thereby to secure them in such sort as that by their own industry and by the fruits of the earth they may nourish themselves and live contentedly, is to confer all their power and strength upon one man, or upon one assembly of men, that may reduce all their wills, by plurality of voices, unto one will: which is as much as to say, to appoint one man, or assembly of men, to bear their person; and every one to own and acknowledge himself to be author of whatsoever he that so beareth their person shall act, or cause to be acted, in those things which concern the common peace and safety; and therein to submit their wills, every one to his will, and their judgements to his judgement. This is more than consent, or concord; it is a real unity of them all in one and the same person, made by covenant of every man with every man, in such manner as if every man should say to every man: I authorise and give up my right of governing myself to this man, or to this assembly of men, on this condition; that thou give up, thy right to him, and authorise all his actions in like manner. This done, the multitude so united in one person is called a COMMONWEALTH; in Latin, CIVITAS. This is the generation of that great LEVIATHAN, or rather, to speak more reverently, of that mortal god to which we owe, under the immortal God, our peace and defence. (Hobbes, Leviathan, ch. xvii).

It was those words which created the modern state as a means to avoid civil war and as a means to create peace by monopolising the means of violence. Civil peace required for Hobbes that people fear the ‘mortal god’, as they have feared the immortal one. Fear of violent death is the motor of it all. It is the beginning of modern sensibilities, the beginning of the ‘civilising process’ (Elias, 2000), and the beginning of international rules trying to regulate warfare and so-called proper conduct in war. One can argue that this is also the beginning of the perception of
evil and in the words of Jeffrey Alexander ‘the social sciences have not given evil its due’ (2001:153). Alexander identifies this problem with the common sense assumptions of social scientists. Much less sympathetic to the social sciences, Hannah Arendt (1951) believed more than half a century ago that social scientists could not comprehend political evil. This is not only the problem of the social sciences. Intellectuals always tried to find the justification for the good and have perceived of evil as the absence of that good and not as a force in itself. Evil can be a valuation in itself and not self-interest wrongly understood or a struggle for power pushed to the extreme. We will try to approach this issue of evil through the fundamental challenge of the ‘fear of violent death’ and the wish for rational self-preservation. Suicide terrorism will be the lens to look at it.

The modern state was founded on the assumption that people have to give up their liberty in order to be safe. It is this state which has been challenged through processes of globalisation. Society has taken over the state. An alternative conception of citizenship emerged, a citizenship not based on solidarity, war, memory and blood, but a citizenship based on something that is normally seen as corrosive to citizenship, namely the global market, consumption and mutual indifference. Terrorism challenges these new developments and throws the state back to its founding moment: the provision of security for its citizens. In the aftermath of terrorist attacks, the ‘mortal god’ returns as ‘fear of violent death’. In the years after Hobbes, Western states lost their authoritarian character, turned democratic, held up human rights and made transitions between different states increasingly easy. Terrorism is challenging these achievements.

II The evil of terrorism and the social contract

Suicide bombings are evil. Thus, to provide an illustration, walking the streets of Israel at any given time is a risky business. Wherever you go, be it a café, restaurant, movie theatre or any other public place, you may be blown into pieces by a suicide terrorist. Part of the evilness is that you will never know when it will hit you. Just one of many examples from March 27, 2002: twenty-nine people – 27 of them civilians – were killed and 140 injured when an attacker exploded a bomb attached to himself in the dining room of a hotel in Netanya during a meal to celebrate the Jewish festival of Passover. Nineteen of the dead were aged over 70. The oldest, Chanah Rogan, was 90. Izz-al-Din al-Qassam Brigades claimed responsibility. The attacks of 11 September 2001 gave this uncanny feeling an unprecedented media presence and has turned civilised life into constant risk. ‘Amnesty International’ accused suicide bombings ‘as attacks without distinction’, and by that hinted at its violation of the basic rules of warfare. Life under the threat of terrorism has the constant potential of being ‘solitary, poor, nasty, brutish, and short’. Has terrorism suspended the social contract within and between societies? Can one fight terrorism within the confines of the social contract or has it fallen into complete disrespect? How helpful is it really to search for causes and try to
’understand’ terrorists as victims of despair and the voices of the repressed? What is it, that sociologist can say about this which hasn’t been said already by other branches of the social sciences? Origins and causality, these are the tools that social scientists can use to tackle issues like terrorism, but what is the link between the idea and the act?

Thus, two of the great philosophers of the last century were interviewed by Giovanna Borradori (2003) to present their thoughts on 11 September, to see if the philosopher of the Enlightenment and the one of Deconstruction could find common ground in an imagined dialogue. Both thinkers were not so much concerned about the terror act as act, but dedicated much more time and thinking to critical remarks of the response of the USA and the so-called ‘war on terror’. Both agree that the only responsible response should be a legal one in strengthening the institutionalising of international law. Both seem to be concerned about global material inequalities as one of the root causes of the attack. They see in global welfare programmes parts of the solution. Thus, they conceive of terrorism as a problem of the inside of the social contract, as if improving the material conditions would make the terrorists accept compromise. This is the material sociology is made of. Causality and variables make the common world comprehensible and one does not have to deal with the notion of evil. It is assumed that people have the same needs, hopes and fears. But in the end, even Habermas has to admit to the breakdown of power-free communication: ‘I cannot imagine a context that would some day, in some manner, make the monstrous crime of 11 September an understandable or comprehensible political act’ (Borradori 2003: 34).

III Sociology weakens the state and the challenge of suicide terrorism

This special issue has taken on a brave challenge. It wants not only to ask the question ‘What is the source of terror’, but wants sociology to try to give an answer to it. It wants to look at the role of sociology in the circumstances of the war on terror. Can sociology actually do this? Clearly, every evil act must have an explanation – including terrorism – because without an explanation, without causality, we just assume that people are supposed to be good and that evil is inexplicable. This is not satisfactory for social scientists.

To this point, two broad sociological interpretations of evil deeds have been developed. There is the framework of modernity and there is the framework of culture that brings out the differences in national and religious cultures and how they grow out of their different histories. Of course, these two frameworks do not exclude each other. The modernity framework gave rise to a cultural analysis as well, but in such a way that it tended to look at what was the same in all countries, and make their exceptions into exceptions that would fade out over time, rather than differences that would mutate over time but stay different. There are things that can be said about society in general, there are crises that every society goes through, and there is, one might think, a meaning to history. In the context of
trying to sociologically understand terrorism this means: how does ‘modernity’, the theory of the development of all national cultures, relate to the actual development of actual cultures?

Since the terror attacks on 11 September, international politics has left the realm of calculability. Not only that, but the generally accepted rules of warfare are being put for discussion. It is the Westphalian Order, based on the notion that a stable and peaceful political order could only be maintained with political entities’ mutually supportive vows of non-intervention, which is being challenged. This Westphalian view was embodied in the League of Nations and the original UN charter and can be considered as the beginning of modern international law (Held, 2003). And this is where notions of ‘human rights’ are being introduced. The modern Human Rights regime is premised on the notion that the prevention of human suffering takes precedence over the principle of sovereignty (Dunne and Wheeler, 1999; Falk, 2000; Ignatieff, 2001; Levy and Sznaider, 2004). This is the opposite of Hobbes and the state’s claim to provide security. The perceived suffering of strangers and the impulse to have that suffering ameliorated is one of the unintended consequences of the global process. The question of human rights as a global issue is not, of course, a new phenomenon. Its origins can be traced back to the late eighteenth century and the international formalisation starting in the late nineteenth century. Its beginnings are ‘marked by attempts to extend the processes of delimiting public power to the international sphere, and by attempts thereafter to transform the meaning of legitimate political authority from effective control to the maintenance of basic standards or values, which no political agent, whether a representative of a government or state, should, in principle, be able to abrogate’ (Held, 2003: 165). The Human Rights Regime weakens the sovereignty of the state. As the sovereignty of the state is weakened, aggressive militarism has been replaced by a codification and legal standardisation of warfare. The reason for this is partly because the sanctity of the nation state has been lifted and both individuals and (ethnic) minorities have obtained a stronger legal status under the aegis of transnational jurisdiction. However, the problem remains that human rights are an absolutist framework whose principles admit of no compromise. It provides a set of standards against which all governments can be measured, and against which all will fall short. Arguably that is appropriate and effective in its proper context. But it is completely inappropriate to the context of limited war. And it is even more inappropriate to the context of civil war and terrorism.

IV The domestication of evil

The blurring of the distinctions between peace/war and civilians/combatants in the aftermath of the terrorist attacks in September 2001 has added a new urgency to discussions about the political status of human rights and sovereign prerogatives (Calhoun, 2002). Suffice to say here, that 9/11 has propelled debates about human rights to the forefront of international and domestic rhetoric. Anti-terrorist
measures frequently infringe upon civic rights and have given rise to demands that sovereignty be less conditional (Ignatieff, 2001).

Taken in the light of all this, it becomes clear that sociology has ignored for a rather long time issues of collective violence (Joas, 1990). Holocaust, genocide, totalitarianism, terrorism, in short what can be defined as political evil, has fallen outside the discipline, even though the major issues stand at the beginning of the cross-roads of modernity and the social sciences. Studies of inequality, mobility and class have left no conceptual room for violence beyond the inter-personal mode. Sociologists just don’t seem to be interested in those issues. If at all, they try to deduce from individualised models and either seek to find interested behaviour (as those of states or interest-groups) or as a breakdown of social order which assumes precisely that order as peaceful and free of violence. However, core sociological questions could be the beginning of a social inquiry. Are modern societies more peaceful than pre-modern ones? This was one of the major questions at the beginning of the modern period and most classical thinkers answered in the affirmative. Kant thought modernisation to be a process of rationalisation and democratisation and with it emerged the liberal hope for a better future. Early sociologists like Herbert Spencer and Emile Durkheim analysed modernisation as industrialisation and with it emerged a vision of a transition from militarised to industrial societies. Norbert Elias perceived modernisation as a ‘civilising process’, and even Marxists hoped that the socialist revolution would overcome the perceived war tendencies of imperialism and capitalism. Thus, in those theories of progress collective violence was thought to be a relic of times long gone, as a remainder of an aristocratic spirit of knights and warriors. American liberals until and up to World War I saw Europeans as backward since they still wanted to fight wars. This was also the beginning of the view that Germany was not modern enough, and this could explain its barbarity: an existential attraction to violence and death was part of the culture of National Socialism as a deviant path from modern liberal humanitarianism.

In liberal societies, cruelty became understood as the infliction of suffering without the old justifications for it. For example, public executions, torture and slavery came under moral scrutiny, whereas in pre-civil society, torture and executions were enjoyed by spectators, who welcomed these spectacles of suffering. However, torture and inflicted pain was not then understood as ‘cruel’ in the modern sense. The modern concept of ‘cruelty’ as characteristic for the penal system of pre-modern times was established by Enlightenment thinkers (Sznaider, 2001). The purpose of the pre-modern penal system was not to reform the criminal offender, but to re-establish the moral order by inflicting physical suffering on transgressors. This is how the procedure of torture came into being. Once it was part of the legal procedure in the majority of states. Especially in legal systems, which relied on confessions as proof of guilt, torture was a means to provide confessions. From the second half of the thirteenth century to the end of the eighteenth century torture was precise, limited, and highly regulated. The law represented the
will of rulers and its violation was considered as an attack on the body of the sovereign, which was answered in kind. Condemned criminals were publicly tortured before their executions. Thus, the public display of public cruelty was the target of eighteenth-century reformers like Cesare Beccaria. In 1764, Beccaria wrote ‘that the torture of the accused while his trial is still in progress is a cruel practice sanctioned by the usage of most nations’. Eighteenth-century reformers identified torture with a wholly rejected worldview, their arguments being made on moral as well as legal grounds. Partly as a result of writers like Beccaria, provisions for torture in the criminal codes of Europe were repealed, until by 1800 they hardly existed anywhere. The Enlightenment was first of all, in spite of Foucault, about the reduction of cruelty. The social contract between people did not allow institutionalised cruelty anymore. Today, when in the wake of terrorism torture is raising its head again, the public is outraged for exactly those historical reasons.

V Counter-claims and the context of terror

Only a few classical thinkers thought otherwise, among them Carl von Clausewitz who claimed that modern wars have a tendency for the absolute and that they contain a logic of escalation within themselves. The classic and notorious Carl Schmitt, who considered peace a state of non-war maintained by keeping your distance from the enemy, continued this argument. Schmitt was aware that a political system based on deliberation and compromise creates a corresponding style of thinking.

However, the truth lies at the extremes. Modernisation implies the loss of inhibitions. Modernisation organises violence, makes it bureaucratic, state-centred and calculable. The roots are seen in the aftermath of the French Revolution and the rule of ‘la terreur’ of Robespierre between 1792 and 1794. Furthermore the formation of the nation state and consequent so-called ‘ethnic cleansing’ operations during the twentieth century are being reworked as symbols of a modernity gone wild. Genocide, ethnic cleansing and increasingly the Holocaust are becoming blurred into political events circumscribed by human rights as the positive force and nationalism as the negative one.

Usually terrorism is not part of those deeds. Official definitions of terrorism in terms of international law do not exist. The League of Nations tried in 1937 to provide such a definition: ‘All criminal acts directed against a State and intended or calculated to create a state of terror in the minds of particular persons or a group of persons or the general public’, but the Convention was never put into practice. Thus, in this definition the state and its citizens are the targets and not the perpetrator. This is also the reason why people concerned with officially binding definitions suggest that terrorism should be considered the peacetime equivalent of war crimes. This legal principle is designed to protect the civilian population from the violence of other hostile states. In ‘war crimes’, states are still the perpetrator. The same is true for ‘crimes against humanity,’ where citizens are supposed to be protected by the crimes of their own state. It is a social contract that states enter
with civilians even in times of warfare. Many of today’s conventions trying to
civilise warfare go back to the Geneva Conventions of 1864 and 1906, the Hague
Conventions of 1899 and 1907, and the Geneva Conventions of 1929 and again of
1949. Starting in the middle of the nineteenth century, these inter-state conventions
were complimented by International Non-Governmental Organisations (INGOs),
organisations with limited resources and authority, representing 'humanity' vis-à-
vis states (Boli and Thomas, 1997: 172). This ushered in a new kind of global
politics in terms of the rights of women (Berkovitch, 1999), children and animals
(Sznaider, 2001), and circumscribed state sovereignty in terms of rules of warfare
and weaponry (Held, 2003). It all grew out of an eighteenth- and nineteenth-
century liberalism perceiving war as a barbarian reminder of the past.

Those conventions were supposed, at least in theory, to make war not only
illegal but morally impossible. The original moral impetus, its historical source, is
the original Geneva Conventions which in turn had their historical roots in the mid
nineteenth century, around the same time that French scientists like Charcot and
Janet discovered mental trauma as the source of people’s misery. These memories
were like parasites of the mind. And so was the experience of war. Thus, the 1864
Geneva Convention laid the foundations for the contemporary humanitarian law.
This and the subsequent Geneva Conventions were explicitly intended by at least
some of their creators to be from the very start a way of outlawing war. It is almost
impossible to fight a war without breaking them. The framers of those conventions
probably intended to define the rules of war in such a circumscribed manner that
no one would be able to actually fight a war without breaking them – in other words,
they sought to start a legal process that would make war illegal. Thus, modern
wars created traumas and traumas created means to reckon with them. Traumatic
memories move between the personal and the political. The psychologisation
of trauma was born together with its politicisation. Terrorism does not really fit
the bill here. It stands outside the Social Contract and thus it is placed outside the
rational considerations usually employed in the social sciences. Thus, in the terms
of the Conventions and the social sciences, one could call terrorism ‘total
violence’ (Sommier, 2002) stressing its nihilist and apocalyptic dimension, or
‘fundamentalist violence’ (Weisbrod, 2002), trying to make the connection
between violence and political religions, in order to come to terms with that limit
experience of death and destruction. It is where so-called secular totalitarians and
religious fundamentalists are joined together.

It is these kinds of connection which make scholars think of the connections
between the violence of totalitarian regimes like the Nazis and current forms of
terrorism. Thus, terrorism is said to share some attributes with the Holocaust and
other ‘ecstatic acts’ of transgression, the Holocaust understood here as the ultimate
act of ‘senseless’ terror. And the term ‘total’, evokes associations with the concept
of ‘totalitarianism’ and ‘total domination’. This notion of the ‘total’ implies that
social contract is impossible, that compromise – the underlying feature of social
contract – is impossible. Conflict does not integrate, it divides. The soul of modern
politics and the social contract is conflict, and the soul of social life is the production of common norms. In the world of the social contract, public conflict can be the key to integration, and the clash of conflicting norms can deepen our common norms and make them stronger. These ideas were elegantly formalised in yet another forgotten classic of mainstream social theory, conflict functionalism, as developed by Lewis Coser (1954). Coser argued that when there are only one, two or three divisions in society, they cut deep; loyalties are strong, and therefore antagonisms are just as strong. But when there are numerous divisions, each of them commands a smaller, more fragmented group loyalty and the opposition is disorganised and therefore milder. Society coheres because the overall tension has been lessened. This is one reason why a free press, and a freely elected parliament in which all parties participate, is less likely to lead to revolution than the oppression of all dissent.

This is why terrorism cannot be explained through the sociological notion of conflict. It is not conflict in the sociological sense of the term. ‘Sociological conflict’ implies responsibility and it is this responsibility which defines the project of the Enlightenment. Terrorism acts without distinction and without responsibility for the consequences. Terrorism is precisely an attack on those institutions of conflict and forces anti-terrorist measures which are constantly on the brink of leaving this kind of institutionalised conflict behind as well. This is not the kind of conflict the rule of law can mediate and constitute the correct procedures where people can live plural lives and compromise. Theorists who assume metaphysics of liberty, equality and fraternity don’t have the theoretical tools to recognise evil, hostile and dangerous people. Good people are supposed to solve their conflicts through reason and enlightened self-interest through so-called ‘power-free communication’ resting on the best argument. Good people are not supposed to waive their desire to stay alive. The wish to stay alive is the kind of thinking on which modern civilisation rests and forms the basis of modern international law (Koskenniemi, 2001). International law in itself can be seen as a liberal and lofty response in the nineteenth century to the hostilities of warfare. It is a typical liberal insurance policy where both sides agree to honour the right to staying alive. It is a link that is supposed to combine all humanity. Terrorism breaks that link, there are no legal or moral limits on violence, no distinction between just and unjust wars and in particular no distinction between innocence and guilt. The notion of distinction is exactly what the rules of war are all about. The ‘honourable’ or ‘civilised’ warrior needs to distinguish between soldier and civilian, between just and unjust acts, between what is allowed and what is not. Without distinction, everything is possible. Death has turned into something to wished for and not to be avoided.
VI Terrorism and the Holocaust – the totalitarian link

And for those who like to employ the term ‘political religion’ which developed outside of sociology, violence is turned into a new god (Weisbrod, 2002) and tries to explain, among other things, the complete disdain Hitler and the National-Socialists had for international regulations and social contracts like the Geneva Conventions (e.g. Kershaw, 2000). The Holocaust is seen in this connection as transgression (Stone, 2004), especially of notions of civilised social contract, and the extermination of the Jews is perceived as an attempt to over-turn the prohibition against murder by killing the carriers of the civilisation of the commandments (Heinsohn, 2000). It seems that with the killing of the Jews, providential religion itself was supposed to be exterminated. The Nazis considered the fifth commandment, ‘Thou shall not kill’, as an invention of the Jews. The Nazis, therefore, completely undermined the international order and social contract, and it seems that the frames of the UN after the war understood this and tried to re-establish precisely this contract.

In this mode, terrorism can be understood not as part of a Moslem culture of death, but as a Western notion of anti-Enlightenment, of which the terror of the Nazis is the prime example. What usually gets into the way of such arguments is the scholarly attempt to integrate the Holocaust and National Socialism into the framework of modernity and not to see it as an aberration (see Stone, 2004). Rather than viewing the Holocaust as a deviation from the emancipatory path, barbarism and civilisational breaks are perceived as inherent qualities, and for some even as inevitable outcomes of modernity and Enlightenment. The works of Hannah Arendt, Theodor Adorno, Max Horkheimer, and Zygmunt Bauman exemplify this debate, casting a wide shadow on theoretical discussions of the human condition, morality, the role of reason and rationality, as well as a continuous reassessing of Enlightenment values as such.

According to Adorno’s and Horkheimer’s study of the ‘dialectics of Enlightenment’ (1944), barbarism is an immanent quality of modernity, rather than its corruption. On their view, civilisational ruptures inhere, at least potentially, in the processes of rationalisation and bureaucratisation that characterise modernity. It is the breakdown of reflexivity within modernity that facilitates the destructive potential of modernity. It was Hannah Arendt who embodied both, the Enlightenment combined with a strong scepticism in her political and social theory. Arendt claims that the concentration camps are beyond understanding, if we remain within the conventional social scientific assumptions of rationality. Why? Because, according to her, most of our actions are of utilitarian nature. Totalitarianism, or in this case, the camps do not fit this utilitarianism. According to Arendt, it seemed as if the Nazis were more concerned with running extermination factories than with winning the war. The ambivalence between the above mentioned frames of civilisation and barbarism remained the primary organising principle for her thoughts on the Holocaust. For Arendt, Nazism – and Eichmann as its personification – represented the
breakdown of the Enlightenment and democracy, of critical judgment and of reason. Nazism, for her, was nothing particularly German, but rather a manifestation of totalitarianism. And totalitarianism was a reversal of all known political traditions. Part of it was the privileging of death over life – a reversal of the social contract. Universalising the phenomenon did not preclude her from recognising its singular features. She perceived the uniqueness of the Holocaust not only to consist in the scope and systematic nature of the killings, but in the very attempt to deny humanity as such. Conventional categories of crime become irrelevant, a view that was later incorporated into the legal canon through the concept of ‘crimes against humanity’. It seemed clear to internationalists that the social contract needed to be re-constituted after World War II. Thus, this is not another debate about the uniqueness of the Holocaust, but an attempt to find a political framework to come to terms with such a limit experience.

Thus the horrors of the Holocaust formed the background against which Human Rights norms and a host of other UN conventions initially established their legitimacy (Levy and Szaider, 2004) after Nazi Germany was defeated. The link between the Holocaust and the emergence of a moral consensus about human rights is particularly evident in the genesis and the consolidation of the Universal Declaration of Human Rights that was adopted by the General Assembly of the newly formed United Nations on 10 December, 1948. It was an attempt to reconstitute the international social contract. The Declaration, as well as the UN charter itself, must be understood as direct responses to the shared moral revulsion of the delegates against the Holocaust – a sentiment that was also reflected in the direct connection between the Declaration and some of the legal principles established in the Nuremberg war crime trials. This link was also manifest in the close working relationship between the United Nations War Crimes Commission and the Human Rights Division of the nascent United Nations (Morsink, 1999: 345). In both cases, concerns about the illegality of retroactive jurisprudence were overcome by replacing conventional (i.e. national) legal principles with the broader notion of international law and its implicit appeal to a civilised consciousness, now viewed as a safeguard against the barbarous potential of national sovereignty.

A brief look at the origins of the Universal Declaration is instructive. It was the recent memory of the Holocaust that let ‘so many delegations from so many different nations and cultural traditions come to an agreement about a universal moral code’ (Morsink, 1999: 36). Analysing the various draft stages of the Universal Declaration and the debates committee members were engaging in, Morsink makes a persuasive case that each and every article of the Declaration ultimately reflects revulsion at the horrors of the Holocaust. The very notion of these rights grew directly out of what was then considered its worst breach, namely the crimes of the Nazis. Hence the Declaration says in its preamble: ‘whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind’. It was clear to the framers of the Declaration which barbarous acts were meant. Human rights are therefore not based on clear-cut
philosophical or religious world-views, but on historical experiences, especially those of catastrophe (Torpey, 2001). This understanding was also echoed when the UN declared ‘genocide’ a crime and asserted that human beings had universal rights. A telling example of how the Holocaust served as the implicit background for the incipient implementation of universal values during the late 1940s and yet itself was not explicitly referred to involves the Genocide Convention, which was adopted by the UN General Assembly on 9 December, 1948. No doubt the example of the Holocaust was the trigger for Lemkin’s efforts to warn the world about systematic attempts to annihilate specific groups. In his mind, however, genocide was by no means synonymous with the extermination of the Jews. Instead, Lemkin justified his project with references to genocidal activities that took place before and after the Holocaust. He was eager, as were so many others, not to present the Holocaust as an exclusive threat for European Jewry, as is made clear in the following passage: ‘The Nazi leaders had stated very bluntly their intent to wipe out the Poles, the Russians; to destroy demographically and culturally the French element in Alsace-Lorraine, the Slavonians in Carniola and Carinthia. They almost achieved their goal in exterminating the Jews and Gypsies in Europe’ (Lemkin, 1946: 227). Accordingly, the Convention on the Prevention and Punishment of the Crime of Genocide defined that act in the broadest possible terms as any of a number of acts ‘committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group’. What we have here are ‘rational’ counter-measures to frenzies of destruction and mass-murder. As if the only reasonable answer to the breach of civilised social contract is another even more rational one. It is the answer of legal theorists to the barbarism outside the legal, and therefore, social order.

VII Civil and un-civil society

This is the deep meaning of the term ‘crimes against humanity’. And in the context of terrorism, it means that the body is turned into a bomb (Bilsky, 2004). The late Palestinian critic Edward Said opposed Palestinian suicide bombing for just that reason:

[Suicide bombings have] disfigured and debased the Palestinian struggle. All liberation movements in history have affirmed that their struggle is about life not about death. Why should ours be an exception?4

It is exactly this exception which lies at the heart of the breach of the social contract. Up to 2001, suicide bombings could be explained by strategic reasoning to achieve national self-determination (Pape, 2003) and to coerce the enemy to withdraw. The creation of a state was the major goal of all partisan movements using terror as a form of warfare. This seems to be not the case anymore. If there is no longer any goal but death, the social contract based on mutual benefits
collapses. Thus, no deterrence is really possible, since deterrence is based on the avoidance of death, which makes the ‘war on terror’ politically futile. Thus, if concepts inside the social order do not capture what terrorism is, we may have to go outside that order. Arendt in her analysis of totalitarian power was looking for such a concept outside the social order and coined it ‘radical evil’, in her 1951 book on the concentration camps: ‘We may say that radical evil has emerged in connection with a system in which all men have become equally superfluous’ (Arendt, 2004 [1951]: 592; see also Bernstein, 2002). Arendt asks us to give up any kind of utilitarian thinking in order to understand this kind of evil. Superfluousness is not only about the victims but also about the perpetrators. When Arendt discusses ‘radical evil’ and the superfluous people, she tried to come to terms with the novelty of the Nazi regime and the extermination camps. She did not talk about suicide bombers, but saw in the extermination of the Jews an unprecedented phenomenon breaking basic rules of social order of utility and the wish to live and outlive. Arendt was concerned about sociology’s inability to come to terms with new political phenomena (Baehr, 2002). Thus, she did not want to understand the Nazi regime in terms already known.

This constitutes a challenge for a sociological understanding of terrorism. To comprehend it in terms of material deprivation, humiliation and causal factors may be not the correct way to understand a rather unprecedented phenomenon. Clearly, one should not be pleased with a metaphysical silence, which was also one of the intellectual reactions to the Holocaust, when it comes to ‘understand’ terrorists who indiscriminately kill others and themselves, but one should also be equally careful to think that nothing new is going on. Thus, there have been many attempts to locate recent waves of suicide bombings in and outside Israel in a life denying culture of Islam, even though the world’s leader in suicide terrorism is the Liberation Tigers of Tamil Eelam (LTTE) of Sri Lanka, which recruits mostly from the Hindu population (Pape, 2003: 343). However these terrorists, and also other ones, still have reasons for their attacks besides killing, namely what they perceive as a struggle for liberation and national self-determination. However, could it be that when these ‘reasons’ do not exist anymore, we have to conceptualise the phenomenon differently all together.

Who was the enemy in the attack on 11 September? Who the enemy in recent waves of suicide attacks in Israeli public places? The United States, Israel, capitalism, the West, Jews and Judaism? In Survival in Auschwitz, Primo Levi describes an incident during his first days at the camp. Desperately thirsty, he reached out of a window to grasp an icicle. A hand knocked it away. ‘Warum?’ Levi asked. The answer was clear: ‘Hier ist kein warum’ (Here there is no why). Thus, can it be that the best framework for coming to grips with terrorism is not religious fundamentalism but modern totalitarianism?

The aim of violence becomes destruction not the construction of some future state. This challenges, on the other hand, the civilisation of warfare. The so-called ius in bello, the art of fighting right and with moral means, the capability to make
distinctions between combatants and civilians, to use proportionate means of combat, are all based on civilised notions of the affirmation of life. Thus, the principle of proportionality suggests that the injury caused should be proportional to the objective desired, and that the extent and violence of warfare must be tempered to minimise destruction and casualties. Central to proportionality is the notion that parties should oppose force with similar force. These rules assume equality between the parties. They all want the same life. This is what makes the social contract possible. Before the social contract, violence was part of God’s plan. Suffering, insecurity, and violence were everyday occurrences. The civil war of Hobbes was permeated by robbery, fighting, pillage, family feuds, and so on. The monopoly of violence by the state was supposed to pacify all that and make the wars between states civilised affairs. ‘Civil’ society means that the gulf between military and civil values has grown. ‘Civil’ society is about the banishment of death. Warriors are part of a heroic past. ‘Civil’ society is supposed to be a post-heroic society, said Edward Luttwak, one of America’s most important strategic analysts, in an article in 1995 where he also postulated the end of what he called ‘heroic conflicts’ between states (Luttwak, 1995).

This is what ‘distinction’ and ‘proportionality’ is all about in the regulated ways of war. Terror does not distinguish (as the name of the Amnesty International Report succinctly says) and it does not allow proportionality. It is therefore, more than anything else, a challenge to the social contract. War was usually conducted under the premise that even if one side tries to inflict as much damage as possible to the other side, it will also watch over its own casualties. This was the beginning and end of all military strategy. The techniques of warfare were based on this principle. Thus, in the 1970s began the so-called ‘Revolution in Military Affairs’ (RMA), which first of all meant to reduce the risk of the fighters involved (Ignatieff, 2000). War was supposed to be bloodless and risk-free. These cultural restraints were part of the development of the social contract where death had to be avoided at all costs. This is the basis for the *ius in bello* which regulates discrimination and proportionality. The waiving of life, even the desire to die, breaks this fundamental rule, it destroys all ethical measures and even more the fear and reverence to the mortal and immortal god Hobbes talked about. It is the fulfilment of nihilism, for which a state based on social contract has no answer (Berman, 2003). Civilised people fear death. Suicide terrorists do not. Consider the statement by Jamal Abdel Hamid Yussif, explaining operations of the Izzadin al-Qassam Brigades (military wing of Hamas in Gaza): ‘Our suicide operations are a message ... that our people love death. Our goal is to die for the sake of God, and if we live we want to humiliate Jews and trample on their necks.’
VIII Conclusion: totalitarian terror

And this is what connects recent terrorism with totalitarian ideologies of the twentieth century and makes Arendt’s analysis of them so vivid for our dark times. In the chapter of The Origins of Totalitarianism on ‘The Temporary Alliance between the Mob and the Elite’, she talks about the attraction that totalitarian movements exert over a certain segment of the elite. She talks about the yearning for ‘losing their selves’ (Arendt, 1951: 434) and the disgust with all bourgeois standards. War has turned into purification for them. She quotes a student of the time: ‘what counts is always the readiness to make a sacrifice, not the object for which the sacrifice is make’ (Arendt, 1951: 434). Nietzsche, Sorel, Pareto, Jünger, Bakunin, and others are the heroes of this anti-liberal outlook celebrating death. ‘Destruction without mitigation, chaos and ruin as such assumed the dignity of supreme values’ (Arendt, 1951: 435). It is a generation that elevated World War I to a new philosophy of life. For Arendt, this was the foundation for the preference for terrorism of the totalitarian movements. Terrorism had turned into political expressionism, using bombs for self-expression. Terrorism is the shattering of the liberal complacency of the social contract. It is also an attack on compromise and peace efforts, as the increased rate of suicide attacks in Israel occurred at the same time as peace negotiations between the two sides entered a serious phase in 1995. This is the complete disconnection between the assumed causality of terror and conditions of misery and social justice. There is also the element of the pleasure of destruction.

This creates a clear asymmetry in the fight or so-called war against terrorism. Sociologists who are used to speak up for the injured and humiliated, regardless of who they are, will have a hard time to integrate nihilistic terrorism within their own professional framework of reason and enlightened self-interest. Sociology as a profession is itself a product of the social contract. To save itself, it is probably easier to understand terrorism in the framework of exploitation and distorted communication. But for sociology to have any relevance after 11 September it will have to give up some of its own predispositions and look for the unprecedented, even this forces it to side with the bourgeois liberal forces of the hegemonic power. Sociology, through its analysis, has to be part of the effort to militarily defeat terrorist networks. It can do so by constantly reminding its audience of the roots of the social contract, and that terrorism is an attack on those very foundations on which civilised life rests.

The fight against terror can hardly be fought solely within the confines of this social contract, as the constant breaches of the rules of warfare in the fight against terror demonstrate. Wars can only be declared against other states. States are the base of international law, even though the notion of ‘crimes against humanity’ undermines the state-centred outlook of international law and stresses the notion of human rights beyond states. At the same time, terrorism is first of all a ‘crime against humanity’ since it undermines humanity’s basic principle of the fear of
violent death. What ‘crimes against humanity’ meant, first of all, was a crime against civilian populations and that there exists a personal responsibility for committed crimes, which goes beyond your state loyalties. Thus, the war against terrorism cannot be the struggle of one state alone; it needs to be conducted in concert with all concerned about the survival of the social contract. In order for the social contract to survive, the modern state cannot cross the path to lawlessness itself in order to save itself. This is the major challenge that states fighting terrorism face today. This is not about the American Hobbesian way versus the European Kantian way (Kagan, 2003), in terms of coercion versus co-operation. Hobbes and Kant are not that far from each other. There can be no league of enlightened republic working in co-operation when people don’t feel secure in their homes and outside of them. It is accepting political reality without giving in to illusions; the stuff sociology is made of.

Let us conclude with Arendt’s conclusion on totalitarianism: ‘Totalitarian solutions may well survive the fall of totalitarian regimes in the form of strong temptations which will come up whenever it seems impossible to alleviate political, social, or economic misery in a manner worthy of man’ (Arendt, 1951: 592).

Notes
2. Westphalian order is the term used in international relations relating to the peace agreement of 1648 bringing the Thirty Years War in Europe to an end. After that political powers had to integrate themselves in an international system based on the legal equality of sovereign entities.
5. This is not the place to discuss Arendt’s distinctions between ‘radical evil’ and the ‘banality of evil’, a notion she used in her book on Adolf Eichmann more than 10 years later.

References