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Machedicy, Or Just War Theory in an "Age of Terror"

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Abstract: This essay investigates dominant form of contemporary just war theory, which I call "machedicy." "Machedicy" (mache, "war/battle," and dike, "justice/right") evokes the traditional connection between just war theory and the theological effort to decode the problem of evil in the West, namely "theodicy." By tracing this connection, the paper leads up to a critique of contemporary just war theory, which retains theologically driven concepts of evil and justification. In Augustine and Aquinas, war is closely linked to the asymptotic abyss that is evil, and when filtered through the intervention of modern concepts (the "warre of every man, against every man" in Hobbes and "absolute war" in von Clausewitz), terrorism becomes the greatest evil of all. This positioning of terrorism as the abyss facing the modern liberal state leads to distortions in our response to it, including the decision to revert to torture. These symptomatic distortions are present in the work of Michael Walzer and Michael Ignatieff, who trade on the traditional machedicy discussed earlier in the paper. In the end, the paper advocates a return to Kantian and Arendtian proposals, for the idea of inflicting more suffering under the guise of "necessary evils" seems to be a contradiction within the canon of reason itself.

In his classic of contemporary just war theory, *Just and Unjust Wars*,¹ Michael Walzer countenances the evil that is war, but he also argues that it can be morally delineated based on cases. That is, war is not *solely* a matter for realist, Machiavellian calculation, but it is sometimes necessary and thus morally justifiable. In this sense, just war theory is about accounting for war and insisting that it have a place in our ethical frameworks.

For those trained in the philosophical apprehension of religious discourse within the Western tradition, these moves might strike an interesting chord: they have both structural and genealogical

connections with the traditional effort to explain the presence of evil in general, or theodicy. To put the matter in Kantian terms, both just war theory and theodicy attempt to explain an apparent contradiction for a "good will," whether that will is ours or God's: we intend the right or best thing, but we also plan to allow or even to promote suffering at the very same time. In this essay I aim to explore some of the connections between these two venerable strands of inquiry with an eye towards presenting a critique just war theory in its dominant contemporary form.

This analysis will first require a look back into the theological tradition of the West. The theological legacy behind just war theory is of no small significance in our day and age, within which religious commitments (even implicit ones) often seem to have such an impact

¹ Michael Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations* (New York: Basic Books, 1977).

on evaluating matters of war and peace. Based on an examination of this legacy, I argue that just war ethics in our current "age of terror" has a dominant form: I call it *machedicy*, a play on the term *theodicy*, which is justification of God's ways in the face of evil and suffering. In general, *machedicy* (*mache*, or "war/battle," and *dike*, "justice/right") can reference any attempt to justify war. But the resonance of the term with "theodicy" also reminds us of the correlation between this effort and the traditional theological attempt to decode the problem of evil in the West: in both cases theorists (and politicians) are forced into a vivid moral crisis within which allowing suffering and violence goes against basic ethical assumptions, and yet it must be justified to maintain a greater good.

Despite the way *machedicy* serves us, there is a danger in its conflation of two different orders of discourse. When the enemy is assimilated with a theological concept of evil, I would argue that our moral discourse is bound to be distorted in response to the threat. Hence, in the last part of this paper, I will cash out my historical analysis by investigating contemporary permissiveness around the question of torture, which is a symptom of this distortion displayed not only in the halls of the White House—but also in the writings of sophisticated political theorists.

I

It is generally acknowledged that "just war theory" began with Augustine. Augustine was well acquainted with pagan concepts of war, which vacillated between strict realism and mythic renderings. But he was also confronted with the threat of the barbarians who had overwhelmed Rome's gates. Augustine wanted to resist war as a matter of Christian principle, and yet he *also* needed to keep the interests of empire in mind, for Rome was becoming Christian Rome, and it was indeed under attack from all sides. Could a Christian empire defend itself, or did it have to turn the other cheek? Augustine answered that war was in fact permissible, as long as Christian principles guided and limited it.

It is interesting to note that the *City of God* begins with the contrast between barbaric, pagan "conventions of war" and the power of Christianity to limit their excesses² In fact, the opening sections signal a theme

that runs throughout the text: along with its rampant polytheism, the unbridled desire for war was the force that had led Rome to its decline. Almost immediately, however, the discussion turns to theodicy (13-17), intertwining the problems of war and evil in Augustine's discourse from the very outset.

In the *City of God*, there are three main ways Augustine connects war and evil in a systematic (and innovative) *machedicy*. We can calibrate these aspects of Augustine's framework by posing a naïve but provocative question: why is war "evil" in the first place?

First, Augustine suggests that war is an evil because demonic forces drive it. In this mythic reading, war becomes a real, objective force that lurks among us, capturing unsuspecting victims. Augustine resisted both Manicheanism and paganism, but the substantialization of evil in his more colorful illustrations bears the imprint of these traditions, where real evil, or evils, oppose good (or each other) in a cosmic battle. Here war is an active opponent to peace, or, to put it in pagan terms, Mars wanders the earth, looking for blood.

Second, war is evil because it is a form of violence, and violence, even in response to a persecutor, should be met with passivity—if the Christian scriptures are to be believed. We recall that Augustine placed evil in a providential scale of being, arguing from the value of "antithesis" (449) that evil is merely "apparent" (453). Those things that human beings call "evil" serve a higher purpose: "There is a scale of value stretching from earthly to heavenly realities, from the visible to the invisible; and the inequality between these goods makes possible the existence of them all" (454). Even poison, as Augustine argues, has its purposes, and death itself, while an evil, has its place when seen in the light of "heavenly realities" (515). Thus death, the "violent sundering" of the soul in the body, "is not good for anyone" (*ibid.*). And yet within a wider frame, death finds its justification: "it becomes the glory of those who are reborn" and "sometimes," if the death is pious and righteous one, "ensures that there is no sin to be recompensed" (*ibid.*).

War is a grave evil, then, as the scriptures indicate, and yet it has a location within God's providential order: "It rests with the decision of God in his just judgment and mercy either to afflict or console mankind, so that some wars come to an end more speedily, others more slowly" (216-217). As Augustine suggests, war is one of the "dour and dire necessities" of

² Augustine, *The City of God*, trans. Henry Bettenson (New York: Penguin Books, 1972), 6-13.

human social life, but the "wise man" may indeed argue that there is such a thing as a just war (861). The justness of a war is first and foremost determined by the "injustice of the opposing side." War itself is horrifying, but it can be justified if the cause is good. The one who fights the just war, however, must be contrite and humble in fighting: "if he thinks himself happy" in fighting a war, then it seems that "he has lost all human feeling" (862). Augustine's first criterion, therefore, runs as follows: War can only be a response to an unjust, aggressive enemy, and, as a corollary, it must be approached with reluctance. It is a last resort, and, if it must happen, its participants must thoroughly regret it – instead of relishing it as a positive value.

War is also evil because it stems from an inscrutable turning of the will away from God. The philosophical basis for this part of the machedicy is of course the argument that "evil" is merely the privation of good (454). God, the ultimate Good, is what truly is, and everything else is an admixture of what is and what is not, arranged in the best possible way in a vast scale of being by God himself (473). Evil is the deficiencies or gaps in this scale of being; in and of itself, it is nothing. But this conception of evil as absence does not prevent Augustine from giving it a conceptual shape, and that shape is asymptotic.³ Evils find their place within the broader scale of being, but, in essence, as soon as we admit anything besides God we admit a touch of evil. The gap that evil is only expands, therefore, the further away we get from God. But is there ever a completely empty, absent space: pure evil?

³ My use of this term stems from Kant's account of transcendental ideas in the First Critique: "The remarkable feature of these principles, and what in them alone concerns us, is that they seem to be transcendental, and that although they contain mere ideas for the guidance of the empirical employment of reason – ideas which reason follows only as it were asymptotically, i.e. ever more closely without ever reaching them – they yet possess, as synthetic *a priori* propositions, objective but indeterminate validity, and serve as rules for possible experience. They can also be employed with great advantage in the elaboration of experience, as heuristic principles. A transcendental deduction of them, cannot, however be effected; in the case of ideas, as we have shown above, such a deduction is never possible." See, Immanuel Kant, *Critique of Pure Reason*, trans. Norman Kemp Smith (New York: St. Martin's Press, 1965), 545-546. My characterization of evil as an asymptotic idea is not intended to match precisely with Kant's conception, but there is certainly an overlap: as is the case for the transcendental ideas, I am claiming that evil is often an unreal, fantasmatic, but rule-giving idea that can organize a whole theological (or political) discourse.

Only as a hypothetical limiting concept, according to Augustine, i.e., a concept of "Supreme Evil" or "eternal death" (852).

Augustine wants to remind his reader that this seemingly abstract analysis is quite intimate, for moral evil is sprung from the human will (474), and in keeping with the asymptotic shape of this problem, it has an impossible, inscrutable core. The purpose of evil may ultimately elude us (453-454), but mystery is part of the design itself, at times serving an edifying purpose ("to exercise our humility or to undermine our pride") but also bursting beyond the boundaries of any satisfying explanation. There is no efficient cause for evil because evil is a deficiency, a falling away from what is: seeking the cause "is like trying to see darkness or to hear silence" (480).

War, as a species of evil, must ultimately be associated with this asymptotic abyss of the will. War can be justified within a broader providential order according to the logic of "antithesis": it is a negative force that can be justified if it responds to injustice, promoting the right kind of concord among human beings drawing them towards the ultimate peace promoted by Christianity. These moral limitations are needed, however, because war projects towards the unreachable and inscrutable core of evil's nothingness. That ever-receding limit can *never* actually be reached, because "there cannot exist a nature in which there is no good" (871). Augustine's machedicy, therefore, depends on a curious paradox: justifying war is a matter of holding it back from an endless vortex of evil that can never become actualized. To this extent, it seems to assert the infinite, horrifying essence of war as an unreal fantasy in order to sustain the authority of its own forms of justification. For if war marks a path into an endless vortex of evil (even though the actualization of it is in fact impossible), then any discourse that forestalls or qualifies our descent into it (just war theory) will be prized.

II

Aquinas codified Augustine's discourse on warfare, thereby instituting the tenets of just war theory that have persisted to our day. The proof texts can be found in the *Secunda Secundae Partis* of the *Summa Theologica*.⁴ As a phenomenon that seemingly detracts from the

⁴ All quotations from the *Summa* come from the on-line version found at www.newadvent.org/summa

virtue of charity, disrupts inner and outer peace, and sunders the stability of law, war is tied to Aquinas' conception of evil, and therefore his just war theory represents a solidification of machedicy in the Western tradition.

In keeping with Aristotle, Aquinas recognizes that human virtues pertain to the management and orientation of human nature. But theological virtues have a supernatural object, namely God, towards which the will should ultimately turn (I-II, qu. 62, art.2). As it turns out, charity is the highest theological virtue, even more advanced than faith and hope (II-II, qu. 23, art. 6), for charity, as an advanced form of selfless fellowship or communion, is practiced without expectation of anything in return. One of the most pleasant outgrowths of charity is "peace," which is not simple agreement or "concord." Peace is the genuine practice of Christian love, so any actions that forestall it require strenuous justification. Thus Aquinas provides an extensive analysis for the justification of war, recognizing, on one hand, that he has just invoked the Christian command to "keep peace," and, on the other, that a Christian nation may be called upon to defend itself in armed struggle.

Aquinas's version of just war theory has three main points (II-II, qu. 40, art. 1):

(1) First, he argues that a just war is premised upon the "authority of the sovereign by whose command the war is to be waged." It should be noted that Aquinas does not propose this principle as a criterion to evaluate whether authorities are legitimate or competent and therefore have the right to lead a nation to war. This point is definitional: wars are not undertaken by private individuals or small groups. Instead, war is a political necessity that is akin to punishing criminals and preserving order; it is a matter of defending the nation as a whole against external threats. To this extent, Aquinas stipulates that war is a question of command and obedience within an authoritarian order, with the aim of defending the security, stability, and integrity of the community.

(2) War must be undertaken for a good cause, namely that the nation attacked "should be attacked because they deserve it on account of some fault." Aquinas is vague on the question of the *causa ad bellum*, so most interpreters have linked this point with the later discussion of killing in self-defense (II-II, qu. 64, art. 7). There Aquinas argues that one has good cause, "seeing that it is natural to everything to keep itself in 'being'" (*ibid.*), for defending oneself against an attacker:

if the analogy between self-defense and the defense of a nation holds, a nation has good reason for fighting according to natural law if it is attacked.

(3) Aquinas' third point regarding the justness of war is the most important and controversial. Everything, Aquinas argues, depends on whether fighting springs from a desire for "the advancement of good, or the avoidance of evil." That is, while acknowledging the "evil" of killing, we must determine whether war serves to promote the ethical practice of charity, in other words, whether it serves the interest of "peace." If war is the result of venal desires, then it is unjust. If the intention is pure, then war has a "double effect," as Aquinas suggests in his analysis of self-defense (II-II, qu. 64, art. 7): preserving the nation, serving the common good, and asserting the truth of God are rightful intentions. In acting on these intentions, human beings may be killed, but this is not the *intention* of the war, so these deaths are permissible.

To gather in the full context for these judgments, we should remind ourselves about some of the fundamentals of Thomas's theological system. Recalling the first principle of a just war, namely "legitimate authority," the premise is that the sovereign dictates human law, which subjects human activity to a rational rule, promoting the good of the community through the practice of virtue (I-II, qu. 90, arts. 1-2). But human law and the sovereign's authority depend on natural law, which has been ordained by the highest sovereign, namely God. Natural law dictates first and foremost that we apprehend being, or what is, and second, as a matter of practical reason, we incline towards what's good and away from what's evil (I-II, qu. 94, art. 2). As a corollary of this inclination, what tends towards life and prevents its destruction is enjoined (*ibid.*); thus, in human law we say, "Do not kill" (I-II, qu. 95, art. 2).

Any kind of warfare, therefore, seems to be excluded by natural law. But the command of the sovereign (God, or the human aligned with God) can supersede this most basic injunction. Our higher, "natural inclination" is "to know the truth about God, and to live in society" (I-II, qu. 94, art. 2). Keeping in mind the higher truth about God, namely the practice charity leading to "peace," and recalling that law is always a matter of the "common good" (I-II, qu. 90, art. 2), it is possible to imagine that a higher cause might trump the basic injunction against killing established in the lowest layers of natural law. In fact, if killing is a result of both a good cause and a virtuous intention,

then the killing itself is an accidental, secondary feature of the action.

Here we arrive at a crucial juncture in the machedicy: this logic corresponds with one of Aquinas's most significant points about evil.

On the surface, war can have good cause as a result of a malign force that confronts us. In other words, violence is justified if it is self-defense against a malevolent attacker; it is justifiable as a dualistic fight against evil. But like Augustine, Aquinas also presents a machedicy that is more subtle than the dualistic picture. Those who fight the aggressor must justify this seeming evil and ascertain why it can be called good, and the answer is that our good intention dictates the nature of the act (II-II, qu. 64, art. 7). Everything else (killing the enemy) is accidental because what we intend, if we are just, is simply to preserve ourselves.

The very same logic, it turns out, applies to God's allowance for evil in general, and here the hierarchical analogy between God and sovereign (and God and self) asserts itself again. All of creation, in fact, is subject to the rule of a "double effect": as a deficiency or absence, evil can only have "a cause by way of an agent, not directly, but accidentally" because of the particular interactions of things that have formal being and goodness. Fire is an evil for water, for example, but only because the more perfect it is, the more it detracts from water, but this evil effect is only a circumstantial accident of fire (I, qu. 49, art. 1). The divine "intention" behind all created things is pure, because God creates what is, and it is good, but the accidents of perfections in relation to each other produces evil, without implicating God's purpose. In fact, in the cosmological sense, "evils" are a necessary part of the created order. Corruption and death are necessary forces, and yet, under the doctrine of the "double effect," God is not essentially *responsible* for death, except to the extent that it is a penalty for the "evil will" (I, qu. 274, art. 2), and even then, because of the purity of God's just intentions, he remains aloof from the suffering associated with it.

The place where the analogy between just war theory and theodicy falters in Aquinas's machedicy perhaps indicates its most important ramification. Just cause in war is premised on the external aggression of a substantive, evil enemy against whom we must defend ourselves. Of course, there is no externality for God, no outside enemy that could prompt his good cause for creating a world dominated by double effect. And yet this invisible Other is perhaps what has to be imagined for Aquinas's theology to work: God's just cause for

making there something and not nothing (and for accepting some "collateral damage" along the way) is the empty, abysmal threat of nothing itself. A cosmic battle may yet lurk in Aquinas's system, and we find its imprint on his seminal vision of just war theory, for the evil will of the enemy remains inscrutable in this machedicy, thrusting us back on paradoxes that are somehow meant to guide our behavior in the world, strange rationalizations like Augustine's, which Aquinas quotes approvingly: "Be peaceful, therefore, in warring, so that you may vanquish those whom you war against, and bring them to the prosperity of peace" (II-II, qu. 40, art. 1).

III

In the modern period, theorists attempted to decouple war and morality, and, at the same time, they tried to release the connection between just war theory and theodicy that I have just described. These efforts gave rise to a *realist* conceptualization of war, a framework that contemporary just war theory attempts to circumvent, I would argue, by means of an often unacknowledged return to the theological tradition. But this dichotomy is not so cut and dried. In general, in modern frameworks, war continued to represent an asymptotic abyss, now positioned as a necessary, fantasmatic opposite to the secular state. Two brief examples should be enough to flesh out this point, which builds towards a critique of contemporary just war theory.

Hobbes, for instance, established the dilemma: modern states (and, indeed, the moral order itself) are established over and against the prospect of perpetual struggle and violence, the "warre...of every man, against every man."⁵ If, out of fear, we are able to draw up an equitable covenant between us, enforced by a strong authority, then we are able to avoid the return into this horror. In more "realistic" discourse about war, we expect that theological concepts like "evil" will be discarded, but the Hobbesian framework specifies the evil of warfare in a modern political sense: war is a step on the way to the dismemberment of the contract that constitutes our moral and political order; it always is in danger of drawing civilized states down into the vortex. And yet, most importantly, the absolute limit

⁵ Thomas Hobbes, *Leviathan* (New York: Penguin Books, 1985), 185.

concept of the war "of every man, against every man" is but a hypothetical fantasy, as Hobbes himself avers.⁶

Von Clausewitz was a realist who also described this nightmare scenario in vivid philosophical terms. Von Clausewitz posits that war is simply "*an act of violence intended to compel our opponent to fulfill our will.*"⁷ This is a quintessentially realist definition, for within it, war becomes a game between nations competing for their own interests (116-117). But von Clausewitz, a turn of the nineteenth century Prussian, had studied Kant: in discussing what war *is*, "the mind cannot stop short of the extreme, because it has to deal with an extreme, with a conflict of forces left to themselves, and obeying no other but their own inner laws" (105). The mind left on its own to think the absolute extremity necessarily invents the absolute war of all against all. For a rational critique of war, this concept must be kept in check because "[t]he result in war is never absolute" (108): even the realist war has limits. But imagining the asymptotic *Tendenz* is a crucial premise in the modern equation. Both the realist and the just war theorist imagine civilized society on the brink—but both also acknowledge that the extremity of the war "of every man, against every man" or "absolute war" is only an abstract, fantastic hypothesis of unaided reason. Yet the projection of this fantasy is active in supplementing any discourse (realist or moral) that controls and patrols this dangerous phenomenon, thus preventing the descent into the (purely theoretical) abyss.

IV

In order to cash out the genealogical analysis I have performed to this point, let us turn to the work of two of our most prominent contemporary commentators on war: Michael Walzer and Michael Ignatieff. Both Walzer and Ignatieff, I would argue, trade on a traditional machedicy, and this leads to distortions in the intellectual frameworks that they apply to some of our deepest moral quandaries. One symptom of these distortions, I would suggest, is apparent in Walzer and Ignatieff's observations about torture. Both have

allowed—with great reluctance and all due qualification, of course—that drastic means like some form of torture may be justifiable in an "age of terror." I will show how this position ties into the history discussed above. To put it in a nutshell, allowing that some form of torture may be a "necessary evil," as both Walzer and Ignatieff do, requires a prior construction of terrorism as something *purely evil*, which trades on the asymptotic shape of traditional machedicy. The result is that *anything* should be done to stave it off.

I should note from the outset that Ignatieff and Walzer are certainly not active proponents of torture. Walzer's famous 1973 essay on "dirty hands," however, lays the groundwork for moral *permissibility* about the practice. Political leaders, Walzer suggests, often find themselves in a bind: they may be opposed to any kind of torture, for example, but then they encounter a "ticking bomb" scenario. A captured suspect may have information about a bomb that is about to explode, killing thousands, and he refuses to reveal what he knows. What to do? From a consequentialist perspective, it's a "no-brainer": do whatever it takes, including torture, to get the information. Walzer argues that this might be the kind of thing that a political leader is called upon to do, and we can only hope that wisdom and conscience will guide the decision.

Reflecting on his essay, Walzer has recently said, "I don't want to generalise from cases like that; I don't want to rewrite the rule against torture to incorporate this exception. Rules are rules, and exceptions are exceptions. I want political leaders to accept the rule, to understand its reasons, even to internalise it. I also want them to be smart enough to know when to break it. And finally, because they believe in the rule, I want them to feel guilty about breaking it—which is the only guarantee they can offer us that they won't break it too often."⁸ These observations seem reasonable enough: the case is extreme, and extreme cases can make for a shaky ethical foundation. Nevertheless, Walzer is also suggesting that it is naïve to uphold an absolute prohibition against torture, even physical torture, because circumstance may make it not only permissible but also right. We have to rely on the conscience of the leader to limit the practice: we hope that we have elected someone prudent, and we rely on her knowing that she will feel terrible if she does in fact have to go over the line, even if much greater harms are averted.

⁶ "So the nature of War, consisteth not in actual fighting; but in the known disposition thereto, during all the time there is no assurance to the contrary" (186); "It may peradventure be thought, there was never such a time, nor condition of warre as this; and I believe I was never generally so, over all the world..." (187).

⁷ Carl von Clausewitz, *On War*, trans. J.J. Graham (New York: Penguin Books, 1982), 101.

⁸ See eis.bris.ac.uk/~plcdib/imprints/michaelwalzerinterview.html.

Already we begin to see the link between Walzer's conceptions and the traditional machedicy described above. Augustine, for example, argued that war is a cruel necessity of life, but redemption can be found in approaching it with regret and contrition. Indeed, Walzer's view also resembles Aquinas's conception of good intention and "double effect": if one's intention is good in violating the dignity of a prisoner, then isn't the torture itself incidental?

To elaborate: terrorism, in the first instance, is a deep form of evil for Walzer. Most fundamentally, it kills innocent bystanders in order to take many other people hostage. Terrorism is "not only the killing of innocent people but also the intrusion of fear into everyday life, the violation of private purposes, the insecurity of public spaces, the endless coerciveness of caution"⁹ Thus Walzer also argues that terrorism is the absolute antithesis of liberal, democratic society, for in its nature it is "tyrannical": it surges towards domination, using "murder" as its "method"; it intimidates and kills within its own ranks; it attempts to coerce through physical and psychological force (64-65). Like rogue dictators without a country of their own to oppress, terrorists walk the earth, threatening the very foundations of democratic societies.

To get a deeper sense of Walzer's understanding of terrorism, however, it must be connected with his revival of just war theory. As Walzer suggests in *Just and Unjust Wars*, the deepest enemies of the liberal, democratic state are violence and coercion. Of course, these are the two main elements of warfare: soldiers are ordered to commit violence on a wide-scale, and even they do not really deserve what they get when they get injured or killed; in addition, a citizenry is often subjected to violence against their will, and they, by and large, are innocent.¹⁰ War also has the tendency to spiral quickly downward: while he critiques it, the Clausewitzian concept of "absolute war" hovers over Walzer's account as an asymptotic limit case. Despite its danger, however, it is an undeniable moral fact that war is sometimes the right thing to do. Countering the realists who argue that war is simply an extension of policy, Walzer asserts that moral reasoning can dictate the right reasons to fight, and it can also impose observable limits on the practice of war, averting the Clausewitzian nightmare (24-25).

In the midst of his text, Walzer argues that innocents have a special status in warfare: different rules apply to them, and there is an assumed prohibition against killing them. Walzer argues for a doctrine he calls "*double intention*," which is meant to strengthen the concept of "double effect" developed by "Catholic casuists in the Middle Ages" (152). Walzer may not mention Aquinas by name because his notion of "double intention" is the same as Thomas's: it's just applied to the question of incidentally killing non-combatants during wartime, rather than killing the enemy himself. Killing innocent civilians is justifiable, Walzer argues, if the overarching military goal is worth such a tragic cost, and, most importantly, if "the evil effect is not one of [the actor's] ends, nor is it a means to his ends, and, aware of the evil involved, he seeks to minimize it, accepting costs to himself" (155). Here we observe an essential feature of this machedicy: the structure of justification surrounding "double effect" is highly mobile, in Aquinas allowing the Christian to kill the enemy, in Walzer allowing the modern soldier to kill innocent civilians.

When it comes to terrorism, however, no care is taken, and this is what differentiates the "just" killing of civilians in war and the acts of the terrorist. In fact, "randomness" is the essence of terrorist acts (197). Most often there is "no defense" for these actions, only a "message of fear," a message that ultimately says we will only accept you if you accept "tyrannical repression, removal, or mass murder" (203); in other words, "terror is the totalitarian form of war and politics" (203).

The vital point in Walzer's analysis is that terrorists refuse all of the usual moral constraints on violence and warfare: "they kill anybody," he writes. Terrorism (and this is the crucial formulation) "breaks across moral limits beyond which no further limitation seems possible" (203). In other words, terrorism is as close as we get to Clausewitzian concept of "absolute war," war with no boundaries or limits, an infinite descent into coercion and violence—the absolute antithesis to the liberal, democratic state.

With terrorism constructed this way, it is not surprising that we find ourselves in a state of "supreme emergency" after 9/11. We simply have to acknowledge, from Walzer's perspective, that terrorism, which is the essence of war, unjustifiable and uncompromising, is threatening "our deepest values

⁹ Michael Walzer, *Arguing about War* (New Haven: Yale University Press, 2004), 51; see also 130.

¹⁰ *Just and Unjust Wars*, 28-31.

and our collective survival."¹¹ In such situations (like the "ticking bomb" scenario) "there are moments when the rules can be and perhaps have to be overridden" (34). Setting "rights normality" alongside "the utilitarianism of extremity," Walzer laments his inability to "reconcile" the "minimal fixed values" associated with rights-based discourse and the "minimum solidarity of persons" associated with utilitarianism. "The opposition remains," he says; "it is a feature of our moral reality" (40).

Walzer's perplexity and candor are both good antidotes to those who play too fast and loose with the "supreme emergency" concept, but the ethical contours provided here give us little traction for criticizing them, especially when it comes to abuse and torture. According to Walzer's version of just war theory, violence and coercion are enemies that we generally suppress, but if we unleash them in the form of warfare, we know that things can get quickly out of hand, descending towards an asymptotic, theoretical point of "absolute war." Fortunately we are most often able to control this Behemoth, and we are even able to place moral limits on it. But terrorists do not do so: they unleash the monster and usher us towards the darkness. They are tyrants; they kill anybody; they are the absolute limit case, the dirty essence of war. In the face of such an enemy, what else can we do but declare an emergency? When we find ourselves in such a state, we can only think about utilitarian aims like saving as many people as possible. Retaliation and repression of the enemy are the order of the day, and "rights normality" has to be suspended. Terrorism is the "ticking bomb" at the heart of modernity; everything is permitted in making sure that bomb does not go off.

I am adding flourish to Walzer's account to make my point, for he himself remains vigilant about abuses in a time of terror: he just demands that if someone is going to make a case for a principle-based stand on questions of human dignity, it needs to stand up to the exigencies that we face. I remain perplexed, however: Why doesn't Walzer make the case himself, instead of building on frameworks that so readily open the door to abuses? If terrorism constitutes a "supreme emergency" because it is such an evil phenomenon, especially from the perspective of the modern, liberal state, then it seems justifiable that a lot of hands get dirty staving off the danger.

¹¹ *Arguing about War*, 33.

V

While Michael Ignatieff more clearly articulates the lines that should be drawn when a liberal, democratic state considers torture, I would argue that he draws upon the same framework that we found in Walzer's work, leaving his theory open to the same kind of criticisms. Like Walzer, Ignatieff certainly does not *advocate* physical torture. As he says in *The Lesser Evil*, a war on terror must stand up to a "dignity test": "Foundational commitments to human rights should always preclude cruel and unusual punishment, torture, penal servitude, and extrajudicial execution" (24). In addition, Ignatieff writes, "torture, when committed by the 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'etre* is the control of violence and coercion in the name of human dignity and freedom" (143). No one can accuse Ignatieff of being "pro-torture," but it is the underlying ethical framework that should interest us here, the machedicy, which leaves some dangerous openings.

Ignatieff bolsters his position on vigorous forms of coercion by claiming that he advocates an ethics of "balance" and "prudence" (9). A democracy must balance the interests of security against the rights-based commitment to dignity, but one cannot trump the other. "What works is not always right. What is right doesn't always work," he says (9). Depending on the circumstances and the risks involved, it may be necessary to abridge rights and to deemphasize dignity in order to preserve security. Ignatieff does argue for a "conservative bias" against abridging or violating rights (9-10), but if we are faced with a dire emergency in the war on terror, where thousands might die, prudence dictates that the dignity of suspects be violated, that the "gloves" should indeed come off (10).

This is what Ignatieff calls a "lesser evil" in the war on terror. If a "greater evil" is a potential consequence of terrorist action, then the lesser evil is warranted. Ignatieff's point in employing the concept "evil" is to remind us that these necessities remain morally wrong, even though they prevent "greater harms" (12). This is Ignatieff's first way of forestalling a slippery slope. The second is to insist that these extreme options remain open to democratic scrutiny and debate; that they remain subject to checks and balances within our system. "[D]emocracy itself," Ignatieff claims, keeps the lesser evil from becoming the greater.

The argument itself is essentially consequentialist, and it comes with all the problems attendant to such positions, as Ignatieff himself admits. We might be struck, for example, by the fact that he announces, drawing on an unfortunate metaphor, that "in choosing the lesser evil course, we may have to take a shot in the dark" (13). Ignatieff also wants to say, from a deontological perspective, that the lesser evil remains wrong; it's just that harmful consequences sometimes overwhelm the wrongness of infringing on dignity. All of this is of course very difficult to evaluate: What exactly is the cost of giving up on a right? Is it worth 30 lives? 300 lives? 3000? And this cannot be a case of weighing the "dignity" of the innocent against the dignity of the suspect: this is comparing actual and potential harms, which is also notoriously hard to do (140-141).

Before getting caught up in such quandaries, we should return to basics in evaluating Ignatieff's stance: where does this association between terrorism and the greater evil come from in the first place, such that lesser evils are warranted? Often Ignatieff gives a moderate account: "Terrorist attacks may be odious and they may demonstrate alarming shortcomings in the system of national defense, but they do not necessarily threaten us with defeat, collapse, or capitulation" (54). Terrorism is "liberal democracy's nemesis" (61), not because the two face off like competitors in the ring, but because terrorism turns democracy against itself. The key, Ignatieff suggests, "is to remain on the higher ground" (62) and to let democracy itself work to make sure that reactions to terror do not go too far (80-81). This more moderate approach characterizes Ignatieff as he continues to defend the "lesser evils" theory against a slippery slope, for he acknowledges that torture can be "originally justified as a lesser evil...and slowly but surely it becomes a standard technique, explicitly used to humiliate, terrify, degrade, and subdue entire populations" (136).

But then, there is another side. At other moments Ignatieff says, "Either we fight evil with evil or we succumb" (19). The greater evil, in very general terms, is "violence." The modern liberal state does all it can to stave it off and minimize it (15), but terrorism is the essence of violence itself because it calls upon violence as the "first resort," not the last (110). Drawing upon Walzer's examination of just war theory, Ignatieff also defines terrorism as a nihilistic void, for it targets the innocent and uses them "as a means" (94). Because of this radical, abysmal threat, terrorism constitutes an

"emergency," for it presents society with the prospect "of its own destruction" (1) by propelling us towards a state of absolute war (111), a "downward spiral of mutually reinforcing brutality" (115).

I would argue that the moderate approach is superior: it is principle-based and draws upon Kant's "kingdom of ends." Remaining on higher ground, not giving in to "taking off the gloves," prevents democracy from sharing in the ugliness of terrorism. This is a rather simple and elegant solution to the slippery slope problem. But the appearance of the discourse of evil draws upon the tradition that I discussed earlier and in this case obfuscates: according to Ignatieff's basic ethical framework, anything this side of the abyss of terrorism is going to be better than allowing it to take shape and threaten, as long as the democracy is keeping an eye on things. But if terrorism is the cause of our descent, the prior cause of our own demise, why *should* we control and limit ourselves? Indeed, if terrorism is the asymptotic abyss, then anything we do will march up to but never touch it. As Ignatieff himself dutifully acknowledges (91), the terrorists maintain the same sort of logic: in a state of emergency (the continuing harm inflicted by the U.S.), the destruction of the World Trade Center was a "lesser evil" on the way to a greater end. As was the case with Walzer, the theory provides no traction, so we scramble within it, desperately trying to hold our ground.

Ignatieff's commitment to proceduralism and his "precommitment" to rights *may* provide an adequate bulwark against potential torture-related abuses. But everything, I would argue, hinges on the way the terrorist threat is construed: even as Ignatieff warns against democracy's descent into greater evils, the construction of terrorism as the *greatest evil* has the stronger gravitational pull, opening to door to the darker angels of our nature, potentially justifying abuse.

VI

To drive my point home: these contemporary theories of war, evil, and necessity are hardly new. Augustine, for example, held a similar view on the specific question of torture. Within the context of criticizing pagan philosophies of the good life, Augustine challenges the philosopher to sit in judgment and to decide when someone should be tortured or not. On the one hand, Augustine's lengthy analysis of the foibles attending to such actions illustrates just how

faulty such a decision can be. "[A]nd yet," says Augustine, "the exigences of human society make judgment also unavoidable."¹² In the "necessary evil" scenario, the right call may be to engage in torture to stave off the abyss. As a result, there is nothing left to do besides confess: "how much more worthy of a human being it is when a man acknowledges this necessity as a mark of human wretchedness, when he hates that necessity in his own actions and when, if he has the wisdom of devotion, he cries out to God, 'Deliver me from my necessities!'" (860-861). This seems to be one consistent outcome of the machedicy I have been describing, past and present: sins and transgressions may be necessary in a state of "supreme emergency," and only a higher power, beyond human moral frameworks, can wash away the "dirty hands."

These discussions of torture, and the machedicy that grounds them, calls to mind a fascinating passage from a 1951 essay by Hannah Arendt, "The Eggs Speak Up," a reference to the old saying, "To make an omelet you need to break a few eggs." In Arendt's time the radical political evil was totalitarianism, the evil towards which all others tended, the absolute limit case that called for a whole spate of "necessary evils." Arendt writes that "all historical and political evidence clearly points to the more-than-intimate connection between the lesser and the greater evil." She continues, "The natural conclusion from true insight into a century so fraught with danger of the greatest evil should be a radical negation of the whole concept of the lesser evil in politics, because far from protecting us against the greater ones, the lesser evils have invariably led us into them. The greatest danger of recognizing totalitarianism as the curse of the century would be an obsession with it to the extent of becoming blind to the numerous small and not so small evils with which the road to hell is paved."¹³ Within the broader construction of his machedicy, Ignatieff inserts the very American, pragmatic role of procedure and openness, "democracy itself," as the antidote to the slippery slope so ably recognized by Arendt. But here too she has an answer, for "[d]emocratic society as a living reality is threatened at the very moment that democracy becomes a 'cause,' because then actions are likely to be judged and opinions evaluated in terms of ultimate ends and not on their inherent merits"; and further,

"each bad action even for the most beautiful of all ideals," she argues, "makes our common world a little worse" (280-281). When machedicy becomes intermingled with the salvific power of "democracy itself," fundamental principles of rational ethics seem to lose their mooring in the response to serious, but manageable threats.

In "Perpetual Peace," Kant presented an even better rejoinder to both machedicy and its contemporary consequentialist off-shoots. Trading upon the Hobbesian nightmare, he wrote that "...war is but a sad necessity in the state of nature (where no tribunal empowered to make judgments supported by the power of law exists), one that maintains the rights of a nation by mere might, where neither party can be declared an unjust enemy (since this already presupposes a judgment of right) and the outcome of the conflict (as if it were a so-called "judgment of God") determines the side on which justice lies. A war of punishment...between nations is inconceivable (for there is no relations of superior and inferior between them). From this it follows that a war of extermination—where the destruction of both parties along with all rights is the result—would permit perpetual peace to occur only in the vast graveyard of humanity as a whole. Thus, such a war, including all means used to wage it, must be absolutely prohibited."¹⁴

Kant was well aware of that which just war theories were designed to prevent: the utter downfall and mutual destruction of modern nation states. But recourse to moral, theological categories is essentially window-dressing for strength and might in the face of the "state of nature" that dominates in the power-play between nations. When rationality, not religious morality, fails to win the day, the chaos of absolute war and the "graveyard of humanity" is the result. Because this consequence is so dire, this obsessive form of warfare, which takes its rules from ideological fantasies, must be avoided at all costs.

For Kant, the deontological moralist, there is a fundamental contradiction in the justification of war that legislates either against or for it: the so-called right to inflict suffering is "meaningless," for it once again finds "peace in the grave that covers all the horrors of violence and its perpetrators" (117). Kant's global

¹² *The City of God*, 860.

¹³ "The Eggs Speak Up," in *Essays in Understanding, 1930-1954* (New York: Schocken Books, 1994), 271-272.

¹⁴ Immanuel Kant, "To Perpetual Peace: A Philosophical Sketch," in *Perpetual Peace and Other Essays*, trans. Ted Humphrey (Indianapolis: Hackett Publishing Company, 1983), 110.

kingdom of national ends is obviously an ideal state of affairs, and it is not proposed as a practical solution to international conflict. Perhaps it even is naïve: the fact is, there *is* no foundational moral justification for war for Kant, only for peace; "...from the throne of its moral legislative power, reason absolutely condemns war as a means of determining the right and makes seeking the state of peace a matter of unmitigated duty" (116). At the very least, however, Kant's analysis suggests that machedicy intermingled with consequentialism leads only to paradoxes and confusions—and "necessary evil" represents a contradiction with the canon of reason itself.