

Military Ethics of Fighting Terror: A Response to Kasher and Yadlin

M. B. Ramose

Received: 29 October 2007 / Accepted: 5 November 2007 /
Published online: 22 February 2008
© Springer Science + Business Media B.V. 2007

Abstract Asa Kasher and Amos Yadlin's article is a penetrating and well argued presentation of the Israeli perspective on the military ethics of terror. It does not claim to be official Israeli policy. Yet, its philosophic theoretical exposition is evident in the Israeli practice of fighting terror. On this basis it is a practical guide to action inspired by a lucid, coherent and compelling theoretical argumentation.

Keywords Military ethics · Kasher · Yadlin · Just war doctrine · Terror · Suicide-bomber

Asa Kasher and Amos Yadlin's article is a penetrating and well argued presentation of the Israeli perspective on the military ethics of terror. It does not claim to be official Israeli policy. Yet, its philosophic theoretical exposition is evident in the Israeli practice of fighting terror. On this basis it is a practical guide to action inspired by a lucid, coherent and compelling theoretical argumentation.

The experience of Israel in fighting against Palestinian individuals and organizations threatening the lives of innocent and unsuspecting Israeli citizens, especially within Israeli territory, is the source and inspiration for the doctrine developed by Kasher and Yadlin. Accordingly, the theoretical exposition espoused here is not just another arid and abstract conceptual analysis with only tenuous relevance to the actuality of terror in everyday life. The fact that Kasher and Yadlin espouse "an Israeli perspective" might lead the less perspicuous critic to the rush conclusion that the article is subjective and particularist. However, a careful, methodic and in-depth study of the article must recognize the universalist dimension of the article without detracting from or undermining its particularist perspective.

Kasher and Yadlin situate their discussion of the military ethics of fighting terror within the context of "a democratic state". The meaning and import of this kind of

M. B. Ramose (✉)

Department of Philosophy, University of South Africa, Pretoria, South Africa
e-mail: ramosmb@unisa.ac.za

state is taken for granted though a comment on the tyranny and oppression of “a democratic state” is certainly necessary. The contextualization is crucial for the discussion because it draws vital inferences pertaining to the ethical duties of “a democratic state” towards its citizens. By so doing, it prepares the basis for explaining the ethical significance of the limits of state action in the fight against terror with particular reference to non-citizens. The classical just war doctrine is another crucial element in the contextualization of the discussion. Here it is particularly pertinent to note that Kasher and Yadlin recognize the exclusion of terrorism from the original exposition of the doctrine as one of its limitations. The exclusion is historically understandable since at the time terrorism as it is known today was not yet born. For this reason Kasher and Yadlin argue that the emergence of terrorism in our time necessitates the expansion of the theoretical horizon of the just war doctrine.

Kasher and Yadlin proffer the definition of terrorism as “an act, carried out by individuals or organizations, not on behalf of any state, for the purpose of killing or otherwise injuring persons, insofar as they are members of a particular population, in order to instill fear among the members of that population (‘terrorize’ them), so as to cause them to change the nature of the related regime or of the related government or of policies implemented by related institutions, whether for political or ideological (including religious) reasons”.

By separating an act of terrorism from an act performed “on behalf of (the) state”, the definition moves beyond the principle of the classical just war doctrine that only the sovereign may declare war. It distinguishes an act of terrorism from an act of war initiated by and, carried out on behalf of the state. But a terrorist is not by necessity a stateless person. The state of the terrorists might not be under their effective control at a given point in time or, the terrorist might be an individual citizen of one state acting through a group or organization whose activity is directed at the population of another state. So the complete separation of an act of terrorism from the state is indeed sustainable as the reaffirmation of the classical principle that only the sovereign may declare war. It is a movement beyond this principle only to the extent that it pertains to a specific act unforeseen by and excluded from the classical just war doctrine.

The definition is also a movement from the description of an act to the determination of its purpose or intention. On this reasoning, Kasher and Yadlin propose a concatenation of three purposes of a terrorist act. The first is either the “killing” or “injuring” of members of a specific population group. The second is to achieve through the killing or the injuring, the instillation of fear among the members of the population group. The third is to coerce the fear-stricken members of the population group to persuade their government to bring about change consistent with the original intention constitutive of the ground for resort to terrorism. For Kasher and Yadlin this intention may reside in the “political”, “ideological” or “religious” spheres. We wish to add that it may be a combination of any two or all three spheres. This latter is a restatement of the principle of classical just war doctrine that there must be a just cause (*justa causa*) or a *causa portandi gladium* (a reason to carry the sword) to wage war. Given the context of Kasher and Yadlin, this means that there must be a just cause – from the point of view of the terrorist – to engage in the execution of a terrorist act. In view of this importation of the classical just war doctrine to terrorism, the concatenation of the three intentions of a terrorist act becomes somewhat problematical.

First it is necessary to distinguish between having an intention and actually carrying it out. The distinction is pertinent because in our time terrorism is not by necessity confined to an act of violence, putative or actual, performed only by non-state actors. It is common cause that contemporary war studies, with particular reference to strategic nuclear weapons, is familiar with expressions such as the “balance of fear”, “hostage cities” or, the “balance of terror”. The point here is that those states that possess these weapons of mass destruction in the MAD (mutual assured destruction) situation have the intention to use them even though they recognize the irrationality of recourse to the actual use of the weapons. The significance of this point is that the “balance of terror” in the realm of nuclear diplomacy pertains to the skilful manipulation of fear in order to achieve specific political or ideological goals. In terms of insight and logic, this is consistent with Kasher and Yadlin’s definition of a terrorist act except that the terrorist’s act is not an act of state and does not fall within the sphere of the “balance of terror”. Another important distinguishing feature is that the terrorist is not deterred from the actual implementation of the intention to kill or injure on the ground that implementation would be irrational. Here irrational is situated specifically in the context of the “rationality of the irrationality” argument with particular reference to the “balance of terror”. It is therefore a moot point whether or not a state may be excluded from the definition of an “act of terror” if having an intention or actually carrying it out is the decisive criterion. There is little doubt that Kasher and Yadlin are sensitive and aware of this because they state expressly that “We do not deny that a state can act for the purpose of killing persons in order to terrorize a population with the goal of achieving some political or ideological goal....Strictly speaking then, our definition (T) of ‘act of terror’ is a working definition rather than a complete depiction of a certain type of act”. This sensitivity to nuance and the particularity of “an act of terror” permeates the entire article.

Given Kasher and Yadlin’s sensitivity to nuance and the particularity of “an act of terror”, the sustained focus upon this specific act is hardly surprising. Its virtue lies in the fact that it makes it possible to extract from the reality of acts of terror specific ethical inferences that inform the practical fight against terror. For example, it is indisputable that the primary ethical obligation of a state is to respect and protect the lives of its citizens in the first instance. Kasher and Yadlin are careful to note that this does not, by necessity, exclude non-citizens. From this obligation it is logical to infer that the state must fight against terror. Kasher and Yadlin are once more careful to add the caveat that where the fight assumes the form of prevention and pre-emption there must be reasonably sufficient, credible and persuasive evidence justifying execution. This kind of careful and methodic consideration of principle and necessity for a particular action strikes the necessary ethical balance. At the same time it stands out as an informed practical guide to the fight against terror. In addition, it gives content and meaning to Kasher and Yadlin’s intention to enunciate “universal” ethical principles guiding the fight against terror. In this way the particularity of the Israeli view has a compelling universal appeal.

A worrisome terminological and conceptual issue is Kasher and Yadlin’s use of the term “suicide-bomber”. This is not treated with the characteristic sensitivity to nuance in this article. Considering the pertinence of the importation of the just cause from the classical just war doctrine to the sphere of terrorism, it is legitimate to question the

terminological and conceptual validity of “suicide-bomber”. The reasoning here is as follows. Suicide is generally regarded as an irrational taking away of one’s life. If this is true, does it follow that the person who decides to lay down their life in pursuit of a just cause is also venturing into an irrational taking away of his or her life? The intention of this question is to suggest that (1) the spectator’s description or definition of a “suicide-bomber” does not by necessity coincide with the self-definition of the agent of an act of terror; (2) if the “suicide-bomber” were to define him/herself as a martyr on what ethical grounds would such self-definition be refuted? Kasher and Yadlin should have maintained their characteristic sensitivity to nuance by giving some thought to the concept of “suicide-bomber”.

Apart from the issue raised in the preceding paragraph, it is beyond doubt that Kasher and Yadlin’s essay deserves serious attention because it is a significant contribution to one of the problems of human co-existence in our time.