

Fight against Terror and Human Rights
—From the Perspective of Human Security—
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0. Introduction

In this lecture we will try to raise a few points about how to fight terrorism while respecting the norms of human rights. Our analysis will be based on the assumption that violence cannot be eliminated by counter-violence. This is a historical observation, not only ethical but also ontological.

On the ethical and juridical level, we will use as entry point the holistic concept of the “right to live in peace”, as a legal idea (*idée de droit*), whose political-economic application is the idea of “human security”. This basic position will enable us to begin from the basic consideration about the War on Terror declared in the Report of the UN Commission on Human Security, “Human Security Now”.

It states unambiguously the opposition between the “human security” approach to the approach represented by the War on Terror. This lecture will attempt a critical approach to this war in search for an alternative, human rights compatible fight against terrorism.

1. The Criminality of Indiscriminate Terrorism: From the Perspective of Human Rights

We will approach the problem of how to fight terrorism in a manner compatible with the standards and principles of human rights. In this attempt we will stress especially the right for all peoples to live in peace without fear and wants. But before entering into this discussion, we must begin by a distinction of three modalities of terrorism; 1) State terrorism, 2) Anti-state terrorism, targeted on a specific person or group, and 3) indiscriminate anti-state terrorism.

To be more precise, State terrorism must also be sub-classified into targeted and indiscriminate; however, targeted state terrorism is legalized so long as it is either an act of war or an elimination of an enemy of the state through legal procedures. So that the

state terrorism condemned by the international community is limited to indiscriminate terrorism against civilians. Whether anti-state terrorism targeted toward enemies is legal or illegal is a matter of political positions, and the saying, “the terrorist for one side is the hero of national liberation for the other” applies to many cases.

The guarantee of the rights of the combatants and of the civilians in International Human Rights and Humanitarian Law is unconditional and it condemns unambiguously indiscriminate terrorism directed towards non-combatant civilians. Human rights and humanitarian law also forbids the states to treat the combatants they have captured as criminals, and this includes the suspects of terrorism.

The War on Terror provides an occasion where these fundamental principles of international law are negated by the hegemon himself, i.e. the United States, in the cases of Abu Ghraib, Guantanamo, and the clandestine anti-terrorist camps reported by the European human rights activists. Our task is to find a possible alternative to the War on Terror. An alternative which enables people to live in peace without the fear of having their rights violated by state authorities.

This requires, naturally, the full observance of the principles of international law in the treatment of prisoners, but more widely an approach to terrorism which does not cause human insecurity of any individual or group of individuals involuntarily involved in the War on Terror. This includes, among other things, the protection of the rights of the potential victims of the collateral damages of terror control. This includes the interdiction of racist profiling of the suspected ethnic groups and the prevention of the politicization and militarization of the counter-terrorist campaigns.

2. The problematic of the War on Terror: From the perspective of human security.

Human rights and humanitarian law must provide the legal and ethical framework within which the fight against terrorism is deployed. It is, however, unrealistic just to propose this truism in face of the War on Terror which is led by the United States in open defiance of international law itself.

The American Government Report on “the National Security Strategy of the United States of America” does not contain any opposition to human rights standards, but states unambiguously that the United States will use preemptive strike, with or without the

support of the United Nations, against “rogue states” before they can use weapons of mass destruction. Preemptive strike, with possible exception of an imminent threat of attack by the targeted country, is considered an act of aggression forbidden by international law.

American strategists are trying their best to develop a theory rationalizing this official position of the United States to break openly international law. They have developed a “grey zone” theory to tell the international public opinion that new threats, i.e. terrorism does not permit the United States to observe fully international law, and that there is a “grey zone” where ambiguity exists and does not permit the United States to abide by conventional international law.

The official statements of the Pentagon and the State Department are in fact applying this “grey zone” theory to the human rights of the prisoners of the War on Terror from Afghanistan and Iraq and to the civil rights of the American people whose private life is put under scrutiny through telephone tapping and e-mail surveillance.

The question of the collateral damages incurred by Arab and Muslim peoples has not yet been discussed in those terms, and the debate about the human rights aspects of the collateral damages of the War on Terror is openly underway only in a few countries like the Philippines where the rights of the Moro people are discussed, not in Russia where the people of Chechnia are also involved in a side War on Terror but where the violation of the rights of this nation is treated as a matter of terrorism control.

Given this reality, we have to ask whether there is an alternative to the above-mentioned Report on the U.S. security strategy. This is where the sub-title of this lecture becomes crucial. There is an alternative to the War on Terror proposed by a UN Report, the one presented in 2003 by the UN Commission on Human Security. Taking this Report into consideration, we can say that there are two opposed approaches to fighting terror: The preemptive attack approach of the Report on “the National Security Strategy of the United States of America”, and the approach to remove human insecurity which is the root cause of terrorism, as proposed by the Report “Human Security Now”. This Report defines its position vis-à-vis the War on Terror in the following way:

“What is now being described as the ‘war on terrorism’ dominates national and international security debates. In addition to military actions, it has increased attention to other tools to fight terrorism, such as tracking (and blocking) flows of funds,

information and people. It has also given rise to new areas of multilateral cooperation, such as the sharing of intelligence. Yet, these actions focus on coercive, short-term strategies aimed at stopping attacks by cutting off financial, political or military support and apprehending possible perpetrators. Equally, state-sponsored terrorism is not being addressed, while legitimate groups are being labeled as terrorist organizations to quash opposition to authoritarian government policies. And fighting terrorism is taking precedence over protecting human rights and promoting the rule of law and democratic governance.”

The above critique of the War on Terror by the Report “Human Security Now” makes clear its basic opposition to the very logic of the Report on the U.S. Security Strategy. It raises three crucial points. 1) the need to pose human rights, rule of law and democratic governance as preconditions for the fight against terrorism, 2) the danger of a biased definition of “terrorism” ignoring state terrorism, and labeling groups opposed to authoritarian governments as terrorists, and 3) the need to avoid measures increasing the human insecurity of inoffensive peoples by the surveillance and blocking of flows of funds, information and people.

A human rights-compatible fight against terrorism has to meet the above three conditions. Yet, this is easy to say but difficult to realize under the present War on Terror. The problem we must solve is not terrorism alone but also the counter-terrorism of this War which is denying the preeminence of international law, developing a discourse which justifies authoritarian control of minority opinions, and causes “collateral damages” and collateral insecurity of migrant workers whose remittance cannot be transferred back home through financial means, such as the traditional Muslim institutions for long-distance money transfer, blocked by the anti-terrorist coalition of states. Collateral insecurity of the migrant communities in industrialized countries, especially of Arab or Muslim origin, under constant surveillance as potential hiding places of terrorists, poses also a serious problem to the human rights-concerned international community, as we saw above.

This is where a human security approach to changing the present War on Terror into a human rights-compatible fight against terrorism will have to begin by posing the problem as one of “common security”, not between the terrorists and the hegemonic state engaged in this War, but between the citizens of the nations allied with the hegemon, and those citizens of Arab and/or Muslim identity.

In order to transform and transcend the War on Terror into a fight against terrorism based on the international rule of law, two conditions have to be met. First and foremost, it is necessary to strengthen the UN institutions, and develop a legal regime to control and punish terrorism, anti-state as well as state-sponsored, through, for example, the International Criminal Court. Secondly, it is necessary to build a “common security” between civilizations and peoples which does not exclude the Arab and Muslim world. This is indispensable as a confidence-building measure to overcome the “security dilemma” between terrorism and the counter-terrorism of the War on Terror.

Obviously, many years will elapse before the above two conditions can be met. The United States will have to be convinced to accept the jurisdiction of the ICC, and the Islamophobia of the West, especially of the western media, will have to be overcome. What is more feasible and urgently needed is to reduce, as much as possible, the negative impacts of the present War on Terror on the people involuntarily involved in this War, and guarantee that their human rights and human security be respected.

At least theoretically, it should be easier to convince the states engaged in the War on Terror to abide by their vocal commitments to democracy and freedom, than to convince the terrorists, whoever they are, to renounce violence. The fight against terrorism, so long as it wants to meet human rights standards, has to concentrate on a campaign to reduce the number of the new recruits for terrorism, since the only way to win over the terrorists without becoming terrorist ourselves, is to convince the public opinion supporting them, including the young aspirant terrorists, that there is an alternative, non-violent means to build a more just and secure world.

Such an approach, the only approach compatible with human security and human rights, is to propose a credible and feasible “road map” towards a world where the international issues causing terrorism can be resolved through just and peaceful means respecting human rights and human security. Such “road map” can be designed in different ways, and we will attempt here to present only one of such maps, as an entry point into further discussion in this Seminar.

3. The Psycho-historical Road-Map for a Human Rights-Compatible Fight against Terror.

In general terms, any “road map” to eliminate terrorism in a way compatible with human rights and human security must begin by developing a variety of measures having as their common objective the reconciliation between historically antagonistic identity groups. In the case of the present War on Terror, it is crucial to develop an all-inclusive “road map” for the reconciliation between Palestine and Israel. Quite differently from the present “Road Map” proposed by the United States, such map must adopt a more balanced approach, recognizing the need for Israel to cease its state terrorism causing a mutual escalation with the Palestinian anti-state terrorism. Their “security dilemma” will have to be overcome.

As a precondition for the building of a “common security” between the two parties, it is essential also to overcome the international Islamophobia, and the Western pro-Israeli syndrome which does not permit anybody to accuse Israel, for fear of being condemned for anti-semitism. The covert development of nuclear power by Israel is accepted because of this fear. To overcome this situation, a “truth and reconciliation” process among the Christian, Jewish and Muslim peoples should be developed on the basis of a simultaneous control and transcendence of anti-semitism and Islamophobia. This is a sine qua non condition for the elimination of the sympathizing opinion towards terrorists (not their acts but their motivation) which exists in the Arab and/or Muslim world.

It is also necessary to cope with the negative consequences of the invasion and occupation of Afghanistan and Iraq, which has created in the Arab and Muslim world an anti-Americanism which encourages young aspirants to join the terrorist reserve. Their number increases and their ardor grows; the more successful is the War on Terror in arresting and killing more terrorists. The recent attack on Iran, and reference to Somalia only add fuel to the existing fire of terrorism.

The fight against Islamophobia is a key stage in the road map to fight terrorism in a way compatible with human rights and human security. From a psycho-historic point of view, the human insecurity of many Arab and Muslim diaspora communities especially in the West, Europe and North America, is part of an unhappy historical development beginning with the Crusades.

The Holocaust of the 1930s and 40s created a sense of culpability in the West, and built a strange coalition between Israel and the “Christendom” West against the “terrorist”

Islam. The Cartoon affair is a typical example of this historical root of Islamophobia well analyzed by Dr. Doudou Diene in his UN Report on Islamophobia.

More generally, it is indispensable to eliminate the structures of xenophobic and racist discrimination and exploitation of the migrant workers accompanying globalizing political economy, and accelerated by the War on Terror. It is especially important to create legal, economic and cultural conditions for the coexistence between the Arab and/or Islamic diaspora communities and the host civil society in order to eliminate the terrorist reserve.

Islamophobia creates situations of chronic human insecurity where a tacit but increasingly intolerable anger is generated among the dwellers of the Arab and/or Muslim diaspora communities. Examples of mistaken arrest, (accompanied by violence) of South Asian Muslim youth by the British police is a case of collateral insecurity experienced by the diaspora communities, a typical example where the young dwellers of these communities are treated by the police as potential terrorists. This is not only a human rights problem, but also a psycho-historical problem in that it encourages the youth in these communities to join the ranks of the terrorists. Islamophobia works as a self-fulfilling prophecy, since the youth treated like terrorists begin to believe that they must become ones.

The effect of the Islamophobia caused by the War on Terror is not only affecting the Arab-Muslim communities in Europe and North America. In a country culturally and historically unrelated to the conflicts between the three Abrahamic religions, (Christianity, Judaism and Islam,) like Japan, the human insecurity of these communities, and of all foreign migrants has increased as a consequence of the strengthened surveillance under the War on Terror.

There has been the regrettable case of a Pakistani trader who was arrested in 2005 in Iwate by the Japanese police as an Al Qaida suspect and released after seven weeks of interrogation after the interrogators had to recognize his complete innocence. The Japanese newspapers which had widely reported as a great victory in the War of Terror did scarcely mention his release. He received personal apology from the police, but no compensation. His business has been entirely damaged by this mistaken identification with Al Qaida terrorism.

More generally, the Arab-Muslim communities in Japan where many migrant workers are undocumented and are treated by the Japanese immigration authority and police as “illegal” migrants, live in a situation of insecurity similar to the Jewish communities under the control of Nazi German occupation. They have to live an underground life, unable to meet for prayer to avoid being arrested by the police who awaits them. They have to ask their legally documented friends to make for them their shopping in the Hallal shops (selling food religiously safe to eat) where the police also waits to arrest them.

The above measures to cope with the effects of counter-terrorism by state authorities of countries joining the War on Terror have to be modified. This is a prerequisite for a fight against terrorism compatible with human rights and human security, and must be included in the “road map”.

We hope that to raise these points in the present lecture will trigger off a good discussion. Terrorism and counter-terrorism are currently engaged in a “security dilemma” escalation of violence and insecurity. To overcome this escalation which is caused by two incompatible discourses, this Global Seminar should become an occasion to develop a discourse, neither terrorist nor counter-terrorist but multi-cultural, recognizing the rights of all peoples to live in peace, even if their profiles look like Osama bin Ladin.