CHAPTER 1

'NOT EVEN A TREE': DELEGITIMISING VIOLENCE
AND THE PROSPECTS FOR PRE-EMPTIVE CIVILITY

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Do not mutilate; do not kill little children or old men or women; do not cut off the heads of palm trees or burn them; do not cut down the fruit trees; do not slaughter a sheep or a cow or a camel except for food, and if you pass by the monasteries of believers who devoted themselves to worship... leave them to what they chose to do.

Abu Bakr, the First Caliph

Pan Islamism is dormant – yet we have to reckon with the possibility that the sleeper may awake if ever the cosmopolitan proletariat of the 'Westernized' world revolts against Western domination and cries out for anti-Western leadership...If the present situation of mankind were to precipitate a 'race war', Islam might be moved to play her historic role once again...Look at history in terms of civilizations, and not in terms of states, and think of states as rather subordinate and ephemeral political phenomena in the lives of the civilizations in whose bosoms they appear and disappear.

Arnold Toynbee, Civilization on Trial

It is symbolic of this all-pervading unpredictability, which we encounter the moment we enter the realm of violence, that those engaged in the perfection of the means of destruction have finally brought about a level of technical development where the aim, namely warfare, is on the point of disappearing altogether.

Hannah Arendt, Reflections on Violence

Introduction

On 12 July 2006 Hizbollah militants crossed the border into Israel and ambushed a group of Israeli soldiers; eight were killed and two were taken hostage. Israel responded by imposing an air and sea blockade of Lebanon. In the following days, hundreds of civilians, including children, were killed by air strikes; Lebanese civilian infrastructure was destroyed; and hundreds of thousands of 'non-combatants' were displaced. Hizbollah retaliated against Israeli targets and also killed civilians. For Israel, this attack by Hizbollah is defined as an act of aggression and the Lebanese government is held responsible; civilian casualties are regrettable but are 'collateral damage' – the Israeli government claims to be destroying the 'infrastructure of terror'. In fact, Human Rights Watch (2006a) has suggested the pattern of attacks indicate deliberate targeting of civilians; the Israelis seem to regard everyone as a potential combatant. For Hizbollah, attacks on Israeli civilians are considered a way to attack the state of

Israel (see Human Rights Watch 2006b). For a full month, both sides were engaged in what they saw as war.

But Hizbollah is an autonomous non-state actor. It is true that many people in Lebanon recognise the militias of Hizbollah as legitimate defence forces, given the weakness of the Lebanese armed forces. It is also the case that the Lebanese government has been requested by the UN Security Council to disarm Hizbollah. But, even before the Israeli attacks, this would have been difficult to achieve except through a long drawn-out process involving the full political integration of the Shi'a population of Lebanon, the establishment of effective security forces, and robust security guarantees from the international community in relation to Israeli military threats. Any attempt to disarm Hizbollah forcefully could lead to renewed civil war. (It was, after all, extremely difficult for the British government to disarm the IRA in Northern Ireland – how much more difficult to disarm Hizbollah?) Suppose a similar attack had been carried

out by Palestinian citizens of Israel: would Israel have bombed itself? The attacks by Hizbollah were a crime, a violation of human rights, but they should not be treated as an act of aggression by a foreign state. These kinds of attack have actually been going on for several years, and there have been many deals for the exchange of prisoners and hostages, often arranged by European mediators over the years.

Those who justify Israel's response do so within a discourse of war, in which Hizbollah's attacks are treated as foreign aggression. In fact, even within the discourse of war, the response can be criticised on grounds of disproportionality, although the Israelis can argue that this is a case of 'military necessity'; indeed, international lawyers have asserted that the attacks violate the principle of proportionality in international humanitarian law (the 'laws of war'). But no justification of Israel's response is possible within the discourse of human rights; such attacks are completely unacceptable by the standards of human rights. And this exposes the shortcomings of the language of war in today's world: the human rights regime (human rights law underpinned by global norms) is increasingly coming into conflict with the rules that govern what is called 'war'. In a global era, when the lives of individual human beings are considered to have equal value whatever their nationality or religion, violent actions such as that carried out by Hizbollah should be dealt with through recourse to international law, which addresses individual responsibility for crimes, not by launching a war against a whole population.

There is a striking parallel with the arguments used to justify terror and the 'war on terror'. The Bush administration defined the attacks of 9/11 as an act of aggression. The 'war on terror' is thus defined as a war of self-defence. Because terrorists do not fight by the rules, because they can attack anywhere and everywhere using every conceivable technique, because they are not swayed by deterrence, 'the only way to deal with the terrorist network is to take the battle to them. That is in fact what we are doing. That is in effect self-defense of a preemptive nature' (US Defence Secretary Donald Rumsfeld, quoted in Crawford 2003: 12). Moreover, because the terrorists began the war, they are responsible 'for every single casualty'. The terrorists also justify their actions in terms of self-defence. They are defending Muslims against occupation whether in Palestine, Iraq,

Afghanistan or Chechnya. Because they do not have access to sophisticated weapons and because they do not have the capacity to defend themselves against American, Israeli or Russian attacks, they also have to take the battle to the enemy. The technique of suicide bombing against civilian targets is the only way that this kind of pre-emptive defence can be carried out, they assert. Thus, one of the British suicide bombers, in a video recording made before 7 July 2005, described himself as a 'soldier'.

Yet, just as the attacks by Hizbollah and by Israel make ordinary people throughout the Middle East less, not more, secure, so the terror and the 'war on terror' do not seem to be succeeding in defending American or Muslim citizens. On the contrary, each act of 'pre-emptive self-defence' provides the justification for further acts of terror. More violence is unleashed in a vicious circle, and nobody on either side seems to care about how to re-establish peace. So how can citizens in conflict areas protect themselves? Are there ever cases when the use of violence can be justified? (see Box 1.1) And in an age when a 'clash of civilisations' between Islam and the West is propagated, what can we learn from both Western and Islamic traditions about the complex relationship between violence, civil society and legitimacy? How relevant are these traditions in a global era?

Our central argument is that war, meaning violence between socially organised groups, normally states, has become morally unjustifiable in the context of the changes we tend to group together under the label of globalisation. These changes include the growing consciousness of humanity as a single global community, the unacceptable destructiveness of war, increased interconnectedness in all fields, the importance of human rights, both as norms and as laws, and above all, new forms of overlapping political authority, often described as global governance, that involves states, international institutions, as well as civil society and, indeed, networks of individuals. There may be cases where the use of force is justifiable to protect individuals against violent crime or human rights violations, but only within a new ethical framework that could underpin the new forms of overlapping political authority. And even in those cases it is necessary to define the limitations of the use of force, the relevant authorisation, and the acceptable justifications. Global civil society seems to

The state's monopoly over 'legitimate' violence is questioned by global civil society © *Teun Voten/Panos Pictures*

us to be the main medium through which such an ethical framework can be developed and sustained.

In developing this argument, we start with some general methodological considerations and we then explore the ways in which Western and Islamic scholars have traditionally approached the issues of war and peace, violence and civility. We have focused on these traditions both because of our own backgrounds and because of the global centrality of the widely debated notion of a clash between the West and Islam. However, we are aware of the need for a fuller investigation of other traditions to develop a complex comparative approach, as well as a global overlapping consensus within global civil society on these questions. In particular, it is important to build on the Gandhian tradition of non-violence (An-Na'im 2002). In the final section, we propose ways of re-conceptualising civility in a global era, building on both Western and Islamic traditions.

Framing the debate:
some methodological considerations
There are important methodological and philosophical issues at stake when thinking about the concepts of

war and peace, violence and civility. These require extensive elaboration beyond what can be done in this chapter. However, we can at least outline some of the directions of thinking that might be fruitful to develop.

The *first* issue is the pressing need to assess the historical legacy of the monopoly of the nation state over the use of 'legitimate' violence. This was supposed to be a 'civilising' process, which would curb violence (civil war and violent crime) within the borders of the nation state. Aggressive and destructive instincts are tamed by restriction and order, and this is what 'civilisation' as a historical and sociological process attempted to achieve (Elias 2000; Freud 1961). But it gave rise to new forms of external violence on a scale and of a degree of cruelty that are almost too horrific to grasp – two world wars and the modern practice of genocide. If the nation state with its monopoly over 'legitimate' violence was capable of placing its subjects under a permanent cloud of threatened violence, from either real or invented enemies, or from its own apparatus, can we then continue to consider this monopoly 'civilising'? Should it not instead be considered a new form of barbarity? (Keane 1996: 35–44; 1998: 124–7; Albrow 1996: 56–64; Zerzan 2005).

There is a powerful case for questioning the state's monopoly of 'legitimate' violence, not so that non-state actors can use violence freely to pursue their goals, but so that the use of force by the state itself can be placed under greater constraints. The strengthening of international law and prohibitions on war during the last half century has paralleled the emergence of global civil society. The rule of law, as Arendt pointed out, depends on legitimacy, and that legitimacy is manufactured by civil society. Whereas international law was previously largely based on a balance of power between states, today a global public opinion involving citizens' groups, global media and individuals is helping to revise the notion of legitimacy as a phenomenon restricted to the national level. Measures such as the establishment of an International Criminal Court, which hold decision makers accountable for policies that result in genocide, mass destruction of cities and their heritage, and massive casualties and death among civilians, are important steps towards holding states accountable, legally as well as morally; and such measures are often the consequence of civic ideas, campaigns and pressures (Glasius 2005). In other words, the question is not only how to challenge the nation state's monopoly of 'legitimate' violence, because this could increase the risk of privatised violence, but also how new agents, such as civil society entities and networks, can monitor the state's use of this power and take over the 'civilising' role at this crucial moment of human history, and how they can deliberate in a democratic manner about the best strategies to achieve this goal. To put it another way, can such agents live up to the promise of 'civilisation', which the nation state has failed to fulfil historically?

The *second* issue has to do with language. The very notion of violence and the various categories used to describe violence are ambiguous. A distinction is drawn between war (legitimate) and terrorism (illegitimate). The word 'terrorism' is used to describe any opposition group that uses force to challenge any established authority, be it an authoritarian nation state apparatus in the Third World or forces of occupation such as the Israeli army in the Palestinian Occupied Territory or the Russian army in Chechnya. But it is not used to describe the terrifying consequences of air strikes that kill hundreds of civilians. There are, of course, many different and contradictory definitions of terrorism, and this is why

it is so easy for all sides to exploit the term for rhetorical purposes (Tuman 2003: 1–29). We need to explore not only the language describing violence, but also the ways in which language itself is violent, violating and volatile in many contexts (Lecercle 1990).

Habermas has drawn attention to the important role that language plays in masking political interests with apparently sophisticated concepts such as the 'clash of civilisations'. Violence, he indicates, can be the result of distortion in communication and the misuse of concepts, such as war, to describe military acts against terrorism. He argues that the rhetorical use of such terms makes it difficult to retain any definite meaning. It also obscures structural forms of violence that are embedded in the modern condition and that are rarely addressed. These structural forms of violence make communication within the public sphere and across public spheres in inter-cultural relations extremely difficult, blocking any fruitful dialogue that might contribute to the construction of a common language. Indeed, Carl Schmitt's (1932/1990) definition of politics as self-assertion against the Other has actually gained more currency, resulting only in more violence (see Box 1.2). Hence violence can be seen as a form (or a manifestation) of distorted communication. As a result, Habermas sees language, and communicative and practical legal and political arrangements that foster a notion of shared humanity, as essential to achieving peace (Habermas 2003: 35–43, 63–9).

The ideas of Habermas can help us reconstruct the concept of terrorism by linking it to the threats it poses to democracy. Democracy is the means and end of individual and social emancipation, and it is the context that allows citizens to make public use of their reason, and reach autonomy of judgement and freedom, concepts that Habermas draws from the Kantian tradition. Terrorism is a threat not only to order and legitimacy but also to the emerging cosmopolitan public sphere, which is becoming increasingly vulnerable with the processes of globalisation. Terrorism exploits this vulnerability to target civilians and perform terrorist acts, using the human body as a weapon if necessary (Habermas 2003: 51–7). The language of the 'war on terror' reinforces the vulnerability of the cosmopolitan public sphere; it magnifies fear and squeezes the space for free speech and the public use of reason. It thus ends up serving the cause of the terrorist.

Box 1.1: Violence and force in civil society

The assumption that violence will succeed where all else, including non-violent strategies, has failed, often leads people to use violence as a misguided 'last resort'. But this confidence is misplaced and not borne out by history: violence only generates more destruction, feeding into an uncontrollable cycle.

Violence and force are not the same thing. Non-violence is sometimes described as a 'force more powerful' because, as examples from Russia, India, Poland, the Philippines and Chile show, non-violence is the force represented by the governed, whose consent is crucial for the maintenance of power by those ostensibly in control over them.

Strategic non-violent action (or force) does not involve threats or physical harm to individuals or societies. Not only is it legitimate for civil society to use force, but this is part of its role, particularly in order to promote justice, resist oppression and prevent exploitation. Strikes, civil disobedience and massive demonstrations are forms of force that do not involve violence, but that seek or attempt to achieve a particular course of action. The main component of a non-violent strategy is the removal or shifting of the pillars of power that maintain an unjust situation. I would argue that force is one of the key tools of civil society, and its use is legitimate. However, justifications for the use of violence are contestable.

The porosity of the term 'civil society' poses both problems and solutions to the issue of whether it is ever legitimate for non-state actors to use violence. The distinction between civil society actors, state actors and religious resistance movements is blurred. Is civil society a 'normative moral order'? (Chandhoke 2002: 36). Is the 'civility' of civil society 'determined by its commitment to abstain from the use of force'? (Ezzat 2005: 44). Are civil society actors 'the keepers of a moral conscience that applies across borders'? (Chandhoke 2002: 41). Or are they simply 'those dimensions of social life which cannot be confounded with or swallowed up in, the state'? (Taylor 1990: 95).

Can we leave all questions of violence, military intervention and military security to the state, on the basis that it is contradictory to link civil society and violence? Do civil society actors become delegitimised by using violence? Perhaps the answer to this question depends on the end uses of violence: is the use of violence legitimate when it is not part of the values of the organisation, for example in collective self-defence against a terror threat, but illegitimate if it is a central methodology of resistance?

When it comes to state violence or uncaring governments, does not their hostility demand a violent reaction by civil society in order to end oppression? Civil society could be seen to have an obligation to redress such injustice by the use of violence; conversely it could be seen as a role model for citizens' movements, standing up against the use of violence on principle. If violence is legitimate in certain cases, then where should the limits be, and who should define and monitor them?

If civil society merely fills the space between the state and the market, and its goals are social and political rather than moral, perhaps violent resistance groups should not be considered part of civil society, making their use of violence irrelevant to this discussion. However, their use of violence can never be irrelevant because violence inevitably causes harm, and goes against social and political aims. If two opposing groups use violent strategies to further their respective causes, what is to prevent them continuing to use violence in future? They are part of a cycle of violence that does not only cause casualties but creates a culture of fear, intimidation and manipulation. Violence reduces people's choices and denies much of what civil society is struggling to achieve, whether in terms of poverty reduction, social welfare, maintenance of human rights, or recognition of minority rights.

If civil society is about 'men and women making the transition from subject to citizen', then the use of violence is contradictory because brutality maintains people in a state of dependence, insecurity and fear. By contrast, non-violence ends dependence and empowers people. Non-violent action, which is based on respect for oneself and others, and on agency, requires working collaboratively, and helping people to deal with their fears so that they have the courage to act non-violently. In this way it develops a sense of security, as well as the ability to act on behalf of the collective rather than the individual.

There remains the issue of values and their application: are the values of global civil society too narrow if civility is linked to secular rationalism and excludes religious groups? Or, if global civil society is inclusive, are its values too broad? In the spirit of democracy, is civil society obliged to include that which goes against its values – and thereby risk self-destruction? Perhaps there is a way to heal the body politic with a holistic approach – a process of detoxification that helps organisations which use violence to address their grievances in a different way. We need to transform violence.

It is not only a question of defining limits and proscribing some organisations from civil society on the grounds that they use violence. We are interconnected, and increasingly so, by the general erosion of borders. Global civil society contains violent and peaceful elements, and it essential to acknowledge this and also that violence remains an inherent possibility for all of us. In any conflict, a major dynamic is the projection of negative characteristics onto adversaries, and the retreat into fantasies of perfection and righteousness. Is it better to exclude violent groups to keep civil society 'pure' or to acknowledge them as members of civil society with a different set of values?

Would global civil society be able to prevent a major threat of terror through the use of violence? Should activists try to eliminate the threat themselves or collaborate with state mechanisms? But what if there was insufficient time? For example, should a civil society group use violence against someone it discovered was about to launch a terrorist attack? Would it be possible to prevent abuses of this use of violence? There is a danger of setting precedents and loosening criteria. For example, legitimising for self-defence, even in extreme cases of provocation, raises questions of how self-defence is defined, what burden of proof is required, and who determines these issues.

One solution may be to acknowledge that there are situations when violence can be excused, although its use should never be legitimised. Refraining from violence, and its legitimisation, prevents the unleashing of further destruction.

Violence is not only anathema to the values of civil society, it undermines much of what civil society represents. Therefore the use of violence delegitimises civil society, by making it uncivil and denying its values and its goals. However, it is essential to include organisations that advocate violence for just political ends within civil society – so that they can be encouraged to move way from using violence. While the violent actions of civil society organisations are illegitimate, the actors themselves are not. They may use force, but do so illegitimately and without the approval of other actors. Through education and a culture of non-violence and peace, they can and must be encouraged to use different tools to reach their goals.

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The *third* issue has to do with the cultural dimension of violence and terrorism. There is a tendency, especially in the West, to adopt a spaceless and timeless conception of culture, that is linked either to individual identity or to the belief system – mainly religion. Islam is often characterised as a religion that is prone to radicalisation and political instrumentalism, yet extremism and fundamentalism can be found in all religions and cultures, as well as secular ideologies like socialism or neo-liberalism (Juergensmeyer 2000; Eck 2005: 21–47; Piscatori et al. 2004).

Since the early 1990s the notion of a 'clash of civilisations' has become an increasingly dominant paradigm (Huntington 1993; Lewis 1990; 1993). This concept provides an implicit underpinning to both terror and the 'war on terror'. After 9/11, the space for more nuanced interpretations of culture was squeezed. Indeed, some neo-conservatives made deliberate efforts to silence critical voices, especially on university campuses (Kramer 2001; and see Campus Watch URL). Scholars that convey a more complex interpretation of the nature of Islam, revise historical assumptions about relations between Islam and Christianity and the West, encourage reconciliation, or even devise innovative and constructive concepts such as 'Islamo-Christian civilization' (Bulliet 2004), which would facilitate multicultural and cosmopolitan debates in order to build an overlapping global concept of civility, have been marginalised in the polarising rhetoric of the 'war on terror'. The questioning that is essential for understanding is seen as unpatriotic. Very little has been written about the Muslim contribution to the formation of the moral and ethical foundations of the international system (Waltz 2002). Ideas and hypotheses that advocate exclusion and conflict are more likely to attract media coverage because they are more controversial, and therefore newsworthy.

Modernity laid claim to exclusive rights over the course of history – the history of the rise of the West. In the global era, superpower hegemony has not only over-militarised the management of international relations but has also laid claim to a single definition of civility that denies the plurality of many cultures (Sen 2006). This is why the control of violence on a transnational basis can be conceived only as part of a far-reaching cultural transformation in which the duties and rights of citizenship are redefined in cosmopolitan terms.

The *fourth* issue concerns the actual context of violence. Indeed, any attempt to locate the cultural dimension in a specific context is usually dismissed as 'justifying' violence. But efforts to explain are not the same as justification. Much has been written about the modernist urban nature of violence in late capitalism, and this should be integrated into contemporary analyses of political violence. There is a general tendency to link poverty with extremism: poverty creates vulnerable people who may be easy recruits for terrorists. Yet this assumption overlooks the fact that a substantial number of the members of Al-Qaeda come from rich families, including Bin Laden and Al-Zawahri.

Recent literature has noted that the wars in our era are mainly conducted in cosmopolitan spaces. Martin Shaw asserts that modern warfare targets cities, and has used historical evidence to show the existence of a link between 'urbicide' and 'genocide' (Shaw 2004: 145–53). In the global cities of the North as well as the urban conglomerates overwhelming many poorer countries, rapid migration has created a new population, consisting to a significant extent of people who have fled violence and poverty in their own countries, and who remain attached to their homelands and ill at ease with the politics and society of their new habitat. The tendency for social violence in cities is compounded by the fact that scenes of violence form part of the visual sphere of urban life, whether these are represented in the media or other forms of entertainment.

Urban life has been romanticised ever since the early stages of the Enlightenment and modernity. Today, terms like 'multiculturalism' and 'hybrid identities' are used to describe the global character of cities (Al-Sayyad 2001: 1–18). Yet hybridity does not necessarily mean tolerance and can contain the seeds of ethnic and religious antagonism as much as more positive, syncretic practices. Moreover, hybridity is not only about mixing cultures from different geographical spaces; it is also about mixing cultures over different time periods (Albrow 1996: 10–11). Thus, marginalised religious doctrines from earlier ages that have long been abandoned by the majority of adherents are resurrected and incorporated into contemporary conflicts. Urban informality is celebrated by many as a sphere in which ideas and values are created, and as an opportunity to design

Multicultural cities may produce antagonism and alienation as much as more positive, syncretic practices ©*Justin Jin/Panos Pictures*

and choose individual, self-fulfilling identities. Thus urban informality allows freedom from dominant cultural norms but it can also produce violent and alienated dogmas (Al-Sayyad 2004: 7–30).

War and peace in Islamic and Western traditions

In her classic essay 'Reflections on Violence', Hannah Arendt (1969) argues that power and violence are opposites. Power depends on legitimacy and all governments need legitimacy. Normally legitimacy is based on a rule of law and some sort of consent. 'Power springs up whenever people get together and act in concert but it derives its legitimacy from the initial getting together rather than from any action that may follow.' In other words, power derives from a sort of social contract. Even tyrants need some sort of consent, argues Arendt (1969), because they need the army and police to obey them. Reigns of terror, like Nazi Germany or Stalinist Russia, can only succeed through permanently atomising all form of opposition ('an outrageously pale academic word for the horror it implies') and destroying any possible nascent form of power. 'Violence can destroy power', says Arendt, 'but it is utterly incapable of creating it.'

This notion that power and violence are opposites echoes similar distinctions that are to be found in both classical Islamic thought and in the ideas of the European Enlightenment. Classical Islamic thought distinguished between the realm of Islam *dar al-Islam* and the realm of war *dar al-harb*. The realm of Islam was a community characterised by a political authority, whose authority derived from the rule of law *Shari'a* and a social contract *Bay'a*. Islam was a system of values contained in the *Qu'ran* and the *Hadith* (the sayings and practises of Prophet Mohammed) and interpreted by scholars *Ulama*. It was based on a notion of human reason, later taken up in Enlightenment thought, which was derived from individual knowledge or awareness of God's will that is imprinted on human consciousness. Within the realm of Islam, the use of force was condemned because violence causes instability, challenges the legacy of the elected authority and results in chaos and civil war (*Bagh'ii, Fitnah*). The towering Shafi'i jurist, Abu al-Hasan al-Mawardi (d. 450/1058), includes among the definitions of the realm of Islam (*dar al-Islam*) not only legal conditions but also human and socio-political security dimensions; thus he defined the realm of Islam as any land in which a Muslim enjoys security and is able to protect himself, even if he is unable to promote the religion (Jackson

DELEGITIMISING VIOLENCE

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Box 1.2: Towards an agonistic multipolar world order

In *The Return of the Political* (1993) and in *The Democratic Paradox* (2000) I have proposed to distinguish between 'the political' and 'politics': the political refers to the dimension of antagonism which is inherent in all human societies, while politics refers to the ensemble of practices, discourses and institutions aiming at establishing a certain order and organising human coexistence, in conditions which are always potentially conflictual because they are affected by the dimension of 'the political'. I have argued that it is only when we acknowledge this dimension of the political and understand that politics consists in domesticating hostility and trying to defuse the potential antagonism that exists in social relations that one can pose the fundamental question for democratic politics. This question is not how to arrive at a consensus without exclusion, which is indeed an impossibility. Politics aims at the creation of unity in a context of conflict and diversity; it is always concerned with the creation of a 'we' by the determination of a 'them'. The novelty of democratic politics is not the overcoming of the we–them distinction but the different way in which it is established. The crucial issue is to establish it in a way which is compatible with pluralism. This presupposes that the 'them' are no longer seen as 'enemies' to be destroyed but as 'adversaries' against whose hegemony we are going to struggle but whose right to defend their ideas we will never question. I use the term 'agonism' to designate the relation among adversaries to distinguish it from 'antagonism', which is the relation among enemies. Following this distinction we could then say that the aim of democratic politics is to transform antagonism into agonism.

My aim so far has been to bring to the fore the consequences of the dominant post-political approach for the workings of democratic politics. In my view, the incapacity of liberalism to acknowledge the political in its antagonistic dimension constitutes a very serious obstacle to grasping the task of democratic politics and the necessity of providing an agonistic public sphere where passions could be mobilised towards democratic objectives and where antagonisms could find an agonistic outlet. The absence of an adversarial form of confrontation leads either to apathy and disaffection with the democratic system or to the emergence of collective identities which are not conducive to a democratic form of negotiation.

Can this agonistic model be useful in the field of international politics? Are there lessons to be learned from recent international events about the consequences of not acknowledging the dimension of the political? How can we make sense of September 11 and the multiplication of terrorist attacks within the agonistic framework? What could a properly political approach tell us about the antagonisms which have emerged in recent years? Those are the questions that I want to examine, and I take my bearings from Carl Schmitt, in whose work we can find many insights that help us to grasp the causes of our present predicament. For instance, Schmitt was concerned about the possible consequences of the establishment of a unipolar world order. After the Second World War, he devoted many of his reflections to the decline of the political in its modern form and the loss by the state of its monopoly of the political. This was linked, in his view, to the dissolution of the 'Jus Publicum Europaeum', the inter-state European law which for three centuries had made possible what he calls, in *Der Nomos der Erde* (1974), 'eine Hegung des Krieges' ('limitation of war'). He was worried about the consequences of this loss of monopoly because he feared that the decline of the state was creating the conditions for an 'international civil war'. How could one envisage an alternative to international civil war? What kind of order could replace the Jus Publicum Europaeum? Those questions were at the centre of Schmitt's preoccupations in several writings of the 1950s and early 1960s, where he discussed the possibility of a new 'Nomos of the Earth'. In an article from 1952 he examined how the dualism created by the Cold War and the polarisation between capitalism and communism could evolve, and imagined several possible scenarios. He rejected the idea that such a dualism was only the prelude to a final unification of the world, resulting from the victory of one of the antagonists, which would have managed to impose its system and its ideology worldwide. According to him, the more promising evolution would be the opening of a dynamics of pluralisation whose outcome could be the establishment of a new global order based on the existence of several autonomous regional blocs. This would provide the conditions for an equilibrium of forces among various large spaces, instituting among them a new system of international law. Such an equilibrium would present similarities with the old Jus Publicum Europaeum, except that in this case it would be truly global and not only Europocentric.

Schmitt did not believe that the existing dualism could last and he considered that, by establishing a 'true pluralism', only a multipolar world order could provide the institutions necessary to manage conflicts and avoid the negative consequences resulting from the pseudo-universalism arising from the generalisation of one single system. He was, however, very aware that such a pseudo-universalim was a much more likely outcome that the pluralism he advocated. And unfortunately his fears have been confirmed since the collapse of communism.

Since September 11 Schmitt's reflections on the status of a 'post-statist politics' have become more relevant than ever, and I believe that they can help us grasp the nature of the new forms of terrorism. As Jean-François Kervégan (2002) has suggested, they allow us to approach the issue of global terrorism in a very different way from the one currently accepted, that is, as the work of isolated groups of fanatics. Following Schmitt, the emergence of global terrorism can be seen as the product of a new configuration of the political which is characteristic of the type of world order being implemented around the hegemony of a single hyper-power.

I submit that Schmitt's insights about the dangers of a unipolar world order are really important for envisaging the challenge with which we are confronted today. There is no doubt a correlation between the now unchallenged power of the United States and the proliferation of terrorist groups. Of course, in no way do I want to pretend that this is the only explanation. Terrorism has always existed, and it reflects a multiplicity of factors. But it is undeniable that it tends to flourish in circumstances in which there are no legitimate political channels for the expression of grievances. It is therefore no coincidence that, since the end of the Cold War, with the imposition of a neo-liberal model of globalisation under the dominance of the United States, we have witnessed a significant increase in terrorist attacks. Even liberal theorists like Richard Falk and Andrew Strauss – who argue in favour of a cosmopolitan order – have acknowledged the link between terrorism and the present world order when they say:

> *With the possibility of direct and formalised participation in the international system foreclosed, frustrated individuals and groups (especially when their own governments are viewed as illegitimate and hostile) have been turning to various modes of civic resistance, both peaceful and violent. Global terrorism is at the violent end of this spectrum of transnational protest, and its apparent agenda may be mainly driven by religious, ideological and regional goals rather than by resistance directly linked to globalisation. But its extremist alienation is partly, at the very least, an indirect result of globalising impacts that may be transmuted in the political unconscious of those so afflicted into grievances associated with cultural injustices.* (2003: 206)

The situation we are currently facing in the international arena is in many respects similar to the one in domestic politics which, as I have argued, explains the increasing success of right-wing populist parties: the absence of a real pluralism entails the impossibility of conflicts around the hegemonic order to find legitimate forms of expression. What is at stake in both cases is the negation of the dimension of the political and the belief that the aim of politics – be it at the national or the international level – is to establish consensus on one single model, thereby foreclosing the possibility of legitimate dissent. No wonder that, when conflicts explode, they take antagonistic forms, putting into question the very basis of the existing order.

Under such an approach, it is the lack of political channels for challenging the hegemony of the neo-liberal model of globalisation that is at the root of the proliferation of discourses and practices which, like recent forms of global terrorism, manifest a radical negation of the established order. This should warn us against the dangers arising from the delusions of the universalist globalist discourse which postulates that human progress requires the establishment of world unity based on the implementation of the Western model. Against the illusion of the universalist humanitarians to the effect that antagonisms could be eliminated by a unification of the world that would be achieved transcending the political, conflict and negativity, it is worth listening to Schmitt when he reminds us that 'The political world is a pluriverse, not a universe' (1976: 53).

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2002: 37). This is one of the definitions used by contemporary scholars to explain why Muslims in the West should be loyal to the nation states in which they live, even if those countries are not Muslim majority countries. The realm of war referred to an arena of irrationality and ignorance where there was no single political authority, and tribal conflict was endemic; and it was vis-à-vis foreign political enemies that war was permitted under certain circumstances.

This distinction between the realm of Islam and the realm of war was paralleled by the distinction between civil society and the state of nature in Enlightenment thought. Civil society, like the realm of Islam, was a political community with a single political authority, based on a rule of law and a social contract. Indeed, the Arabic term for civil society, *Almujtamaa Almadani*, derives both from the word for city and from Medina, the city where Mohammed first established his Islamic society/city state. The state of nature was an arena without any political authority, where man was more or less prone to violence, depending on the assumptions about human nature of different Enlightenment thinkers. For a pessimist like Hobbes, it was 'war of all against all' but for Locke violence arose when there was no way of arbitrating differences of interpretation of the law of nature (understood as God's will imprinted on human consciousness).

It is sometimes argued that civil society is different from this concept of Islamic society because it is a secular notion that can apply to all human beings. But Islam was also a universal creed that claimed global relevance to any human community; hence we find the *Qu'ran* addressing 'mankind' in many verses with ideas related to human nature and principles calling for inter-cultural and inter-religious dialogue and coexistence. In practice, however, both were bounded concepts. Civil society was bounded by territory and Islamic society was bounded by belief and by territory, even if it adopted some measures of religious pluralism. Within these communities, there was a presumption of non-violence, a notion of peace with justice, and this was contrasted with the external world of violence. In both systems of thought, war against the external world was generally justified, although there were thinkers with different ideas, as discussed below.

For Ibn Khaldun, the fourteenth century historian, the only legitimate wars were *Jihad* and wars to suppress internal rebellions. The word *Jihad* is often referred to as the Islamic doctrine of holy war, yet in the *Qur'an* it is used to describe the struggle for the ultimate virtues of Islam, in the sense of testimony, as in Christian ethics; and the word used to describe military affairs is *Qital*, which was governed by strict laws of war. Thus, *Jihad* is not necessarily a violent act; on the contrary it is first and foremost a peaceful endeavour and struggle. Indeed, *Jihad* was not understood by the majority of scholars as a military term, and there were very few voices that made the case for war against an enemy for the mere reason of their disbelief (*Kufr*). The majority, including prominent scholars and established *Ulama* over centuries, such as Imam Abu Hanifa, Imam Malik, Muhammad Al-Hassan Al-Shaybani, Imam Al-Awzaii, Muhammad Ibn Rushd, Ibn Taymiyyah and Ibn Qayyin Al-Jawziyyah, made judicial rulings against going to war in order to bring about the conversion of non-Muslims (Kalin 2005: 345).

Ibn Khaldun's point is that external wars are legitimate only when they are *Jihad*. According to classical Islam, a war is *Jihad* only when people refuse to allow Muslims to call freely for their faith in the territory of a respective non-Muslim political entity, or refuse to submit to the legal rules of the Islamic community domestically by resorting to armed dissent. Among Shi'ites, and the majority of Sunni Muslim schools of jurisprudence, an external war was legitimate only in self-defence, to defend rather than to extend the Muslim community. Peace, that is, the repelling of aggression rather than conversion to Islam, was the ultimate aim of fighting. This is clearly indicated by several verses throughout the *Qur'an* that clearly envisage a terminus *ad quem* other than conversion or annihilation. Whether Muslim rulers abided by these rules was, of course, largely a matter of political calculation rather than religious doctrine. Indeed, in the period of classical Islam societies were much more tolerant than the Christian West. Throughout the Middle Ages, one could live as a Jew in Morocco, a Christian in Cairo, or even a Zoroastrian in Shiraz, but one could not live as a Muslim in Paris or London (Jackson 2002).

In classical Islamic thought, for war to be classified as *Jihad* it must have a legitimate cause, namely, the extension or defence of the Islamic community, and be authorised by a legitimate authority, either the Caliph, who was both a religious and a political

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authority in the early years of Islam, or a political authority, such as the Sultan. Most importantly, it has to be fought justly. Indeed, Islamic jurists were much more preoccupied with what in the West is known as *jus in bello*, the means to be employed, than with the issue of legitimate cause. These rules were more strict in wars against dissenting Muslim groups than non-believers; nevertheless, there developed strong codes about the treatment of prisoners and non-combatants in all wars. In particular, 'torture, mutilation and treachery were strictly forbidden'. As was cutting down trees – hence the title of this chapter (Al-Fadl 1999: 156).

In the Western tradition, 'just war' is sharply distinguished from 'holy war'. And yet a closer inspection of the meaning of the terms suggest that just war, in the Western tradition, is closer to what classical Islamic thinkers meant by *Jihad* than the term 'holy war'. St Augustine, the father of just war theory, was primarily concerned about restoration of the moral order. In Christian teachings on just war, the notion of neighbourly love and the protection of others was an important element. War was necessary, according to St Augustine, in order to 'curb licentious passions by destroying those vices which should have been rooted out and suppressed by the rightful government' (quoted in Langan 1994: 12). According to John Langan, this 'punitive' concept of war overrides self-defence. For St Augustine, war can be authorised only by a public authority for public purposes – it is about the protection of others. Thus obedience to a rightful authority is central to his thinking, and individuals, even if they reject temporal rulings, have no right to resist. A just war also excludes passion and revenge. Following St Augustine, medieval scholars, particularly Aquinas, viewed just cause as righting an injury or a fault caused by others. In the twentieth century, just cause has come to be associated only with defensive wars – wars against aggression (Walzer 1992).

Just war was distinguished from holy war in that it was authorised by secular authorities and recognised certain *in bello* restraints. These restraints, later to be incorporated into international humanitarian law, included notions of proportionality (the means used had to be proportional to the ends – what would be gained by victory), discrimination, especially the combatant/non-combatant distinctions, rules about the treatment of prisoners and rules outlawing certain types of weapons. Holy war, by contrast, could be authorised by religious authorities and was waged

Box 1.3: Concepts of *Jihad* and just war in contemporary thought

In the 1980s Muslim intellectuals had not been paying attention to the international context and therefore, in the aftermath of the assassination in 1981 of Egyptian President Anwar Sadat, they were astonished to read the letter about 'neglected duty' by Abdul Salam Faraj, founder of *Jama'at al-Jihad*, the radical group responsible for the assassination. What I mean by the international context is the emergence, during the Vietnam War, of a 'just war' literature, whether for or against the concept, by authors such as Michael Walzer (1992). At the same time, ideas of 'revolutionary violence' (armed struggle) and the 'people's continuous war' were also being invoked and debated between the traditional left and the new left. The parallels between these seemingly separate debates were not fully grasped by Muslim scholars at the time.

This glorification of violence was striking, for three reasons. First is the association of violence with morality rather than necessity. This was evident in the late US President Ronald Reagan's 'evil empire' slogan with reference to the Soviet Union. It is also apparent in President Bush's presentation of the 'war on terror' as a war between right and wrong, good and evil. Second, violence is associated with religion. Just war is an old Christian concept, invoked in the late 1970s and revisited in the aftermath of September 11. Of course, its Islamic counterpart is the concept of *Jihad*, which was reintroduced about the same time and given military connotations, as distinct from its earlier spiritual, ethical and religious associations. Third, the three main proponents of violence – Islamic fundamentalists, neo-leftists and evangelicals – were not satisfied with the way international law and international organisations treated the issue. They criticised the international community's reluctance to intervene militarily in conflicts for the benefit of the oppressed, and its submission to great powers that might or might not intervene on the basis of their own interests and concerns. For evangelicals and neo-conservatives, this perceived incapacity of the United Nations justified US unilateral military intervention; for Islamic and leftist revolutionaries it was reason enough to engage in violence without waiting for the state or the international community.

Faraj's letter about 'neglected duty' raised several new issues pertinent to the evolution of the concept of *Jihad* during the 1970s. According to the traditional Sunni perspective, *Jihad* is a mandatory, but not an individual, duty. Therefore, to neglect *Jihad* is to neglect one of the pillars of Islam, which at the same time holds that *Jihad* becomes an individual duty in the case of self-defence against aggression.

Faraj had not added a new dimension to the interpretation of the concept. He argued for an extension of Jihad from defence against external aggression to internal struggle. In other words, he legitimised the resort to violence against a ruler and his associates. In so doing, he went all the way back to the interpretation of Ibn Taymiya, Ibn Al Kayyim and Ibn Kathir, medieval scholars who doubted some rulers' adherence to Islam due to their submission to and/or cooperation with invaders during the crusades and the invasions of the Moguls. Thereafter, the tendency to judge rulers to be infidels spread beyond some extremist groups to reach wide social classes, as a consequence of the growing influence of Wahhabi Salafism on Islamists in general during the 1970s and the 1980s. Salafis pay close attention to the precision of jurisprudent rulings, and they maintain a much closer association between faith and action than do traditional groups and certainly the 'Muslim Brotherhood' between the 1930s and the 1950s.

Since it is legitimate now to engage in *Jihad* against a state considered to be infidel, the third traditional Islamic condition legitimising *Jihad* no longer holds for Faraj. This condition pertains to *Jihad* always being waged by the state and always against external aggressors. And if the purpose is to resist an invader, it is legitimate for any individual to defend his land or country without permission from the state. Now *Jihad* could be pursued against the state in a modern context, according to Faraj's interpretation. Instead of delegating to political authorities, individual initiative triggered many responses against the state and also had international implications as, for example, when Muslim individuals and groups joined the *Jihad* in Afghanistan against the Russian occupation without seeking permission from their respective nation states.

The war in Afghanistan against the 'infidel' Soviet invaders bolstered the classical Islamic interpretation of *Jihad* in which everyone was devoted to fighting these occupiers of Islamic land. It is also known that Egyptian members of the Organization of *Jihad (Tandhim Al Jihad)* and the Islamic group *(Jama'a Islamiya)* that fought

in Afghanistan continued in parallel to engage in operations against the state inside Egypt during the 1980s and the 1990s. It may be noted that they used the term *Jihad* in their press releases and on the Internet more in connection with the Egyptian state than with the Russians and the Americans. Yet a religious and political debate about *Jihad* took place in the rank and file of these organisations which continued to legitimise it only against rulers and their associates.

If the war in Afghanistan moved Islamic extremists away from the phase of internal *Jihad* towards that of external *Jihad*, it was the emergence of Jihadi Salafism *(salafia jihadiya)* that brought about another development around the mid-1990s. The term 'Jihadi Salafism' was first introduced by Sheikh Abdullah Azzam, a prominent Jordanian militant leader who joined the war in Afghanistan around 1987. It seems that it was intended to unify Arab and non-Arab Salafis in Afghanistan on the eve of the Russian withdrawal. Yet the term quickly proliferated, appearing in Bin Laden's press releases and then in the public statements of Algerian fighters between 1994 and 1997. However, Bin Laden and Algerian Salafis were later to disagree on priorities. Whereas Bin Laden gave priority to fighting external enemies, Algerian Salafis believed that they must first struggle against the infidel Algerian government and its associates and against those Algerians who did not rise up against the state. Consequently, Algeria experienced a long and fierce civil war after the Islamists' victory in the democratic elections was annulled by the state.

An event that occurred during the autumn of 2002, when I was teaching at Harvard, is relevant to this discussion. The Director of the Institute for American Values, together with 60 other American intellectuals, issued a statement addressed to Islamic intellectuals in which they asserted that the 'war on terror' was a just war (Institute for American Values 2002). After about a year of dialogue and debate, Arab and American scholars met in Malta to discuss various issues, among them that of just war (see Blankenhorn et al. 2005). While we moved towards agreement on several issues, including that of Palestine, we could only disagree on the issue of just war. I recall one debate between Abdullah Wald Abah from Mauritania and Jamal Baroutt from Syria on one side, and Johnson and Novak on the other. Johnson argued that a defensive war was a just war, and Wald Abah and Baroutt agreed. But there was disagreement about the definition of a defensive war. The two Arabs – one a religious scholar, the other a writer – held that a defensive war was one considered as such by international law, and would include national liberation struggles and wars waged against external aggressors. The Americans argued that a just war was defined by moral values. They went on to say that some international laws were just plain wrong while others were ineffective. Of course, that was not going to pass without a reply from the Arabs present in the meeting, who cited the Charter of the United Nations in 1945. To ignore it, and to argue ineffectiveness, was simply unacceptable. Five days after September 11, the UN Security Council unanimously adopted a resolution to attack Al-Qaeda in Afghanistan. Several nations agreed with that, and they have maintained their support, despite the fact the US went beyond the resolution by overthrowing the Afghan government and replacing it with armed gangs which it had itself contributed to ejecting from power earlier on. Justifications for the war on Iraq framed in terms of morality and self-defence were even more biased. In reality Americans equate morals with what they understand to be their national interest.

In the past two years the rhetoric of *Jihad* and just war has faded. The *Jihad* of Bin Laden and the late Al-Zarqawi is no longer accepted by scholars or by the majority of Islamic movements. Moreover, proponents of just war on the Western side have stopped calling for it, having learned hard lessons from what is happening in Iraq. It remains to be seen what alternative concepts emerge on both sides to further legitimise violence, and how global civil society can respond by reclaiming the morality of peace from those who proclaim the morality of their wars.

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Mural of St George in an Ethiopian church
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against non-Christians. This is why the Crusades were so bloody. It was not because they were fought against non-Europeans; rather, the Crusaders believed themselves to be fighting a holy cause, which could not be restrained by *in bello* rules. When the Crusaders sacked Jerusalem, some 65,000 'heathens' were killed. The same thing happened during the Spanish Inquisition, when Muslims and Jews were expelled or exterminated during the wars that terminated Muslim rule in Andalusia, which also marked the end of the coexistence of the three faiths (*convivencia*). In the transition to modernity, scholars like Victoria and Grotius were, according to Turner Johnson (1981), responsible for the 'dethroning of religion'. Victoria, in particular, made the point that natural law, the law imprinted by God on our consciousness, applies to non-Christians such as American Indians. Grotius identified just cause with charity, by which he meant something akin to what nowadays we would call humanitarianism.

In both traditions, internal rebellions against a rightful authority are condemned. But whereas in the Islamic tradition restraints on war applied even more stringently, because internal rebellions involved conflicts among Muslims, in the Western tradition the opposite was the case. Luther's views on the German peasants' revolt (1524–5) have been widely quoted:

'No matter how just their complaints, a peasants' victory would mean lawlessness, disorder, bloodshed and suffering.' Thus, the rebels should be treated not as soldiers but as criminals, and Luther urged the nobility to employ their armies to 'stab, kill and strangle' the peasants as though they were rabid beasts (Kelsay 1993: 79). It was only during the American civil war that rebels began to be treated according to the rules of war.

In the Islamic tradition, by contrast, binding regulations applied to wars between Muslims.

If Muslims fight one another, the fugitive and the wounded may not be dispatched. Muslim prisoners may not be executed and women may not be intentionally killed or imprisoned. Imprisoned male Muslims must be released once the fighting, or the danger of continued fighting, ends. Furthermore, the property of Muslims may not be taken as spoils, and any property taken must be returned after the cessation of fighting. Even more, means of mass destruction such as mangonels, flame throwers or flooding may not be used unless absolutely necessary. (Al-Fadl 1999: 144–5)

These rules applied only if the rebels were considered to have a plausible reason for fighting based on a valid interpretation of the Islamic sources (*Ta'wil*). Thus, tribal reasons or greed were not plausible. The rebels also had to be sufficiently powerful (*Shawka*).

As the jurists put it, without the requirement of Shawka, anarchy and lawlessness will spread...They contend that without the requirement of Shawka, every corrupt person will invent or fabricate a Ta'wil and claim to be a Baghii (a legitimate rebel). (Al-Fadl 1999: 148)

Hence, these established rules determined under what conditions the rebels could be considered as a party with whom one could negotiate and reach settlement.

Both the Bush administration and the global jihadists have distorted the injunctions contained in these traditions and indeed reduced them to cosmetic justifications. The 'war on terror' is supposed to be a just war. It is justified as a defensive war and, according to Rumsfeld, 'we are doing everything

The treatment of prisoners at Guantanamo Bay belies the idea that the 'war on terror' is a just war © *Joe Coulson/Panos Pictures*

humanly possible to try to avoid collateral damage' (Crawford 2003: 13). If we take the just war tradition as the starting point, the 'war on terror' fails, on the criteria both of the treatment of prisoners and of proportionality. On the one hand, the administration implies that the word 'war' is justified because Al-Qaeda can be treated as an enemy akin to a state. On the other hand, any suspected terrorist is treated like Luther's peasants with neither the protection of the laws of war nor that of criminal justice. Civilian casualties caused by the wars in Iraq and Afghanistan, even if the United States has acted discriminately according to the standards of war, now far exceed the numbers killed in terrorist attacks, with little prospect of victory in sight. But one of the problems of the just war tradition is that it is always possible to argue that military necessity overrides *in bello* constraints.

Contemporary jihadists also have a very reductionist view of what Jihad means. For them, *Jihad* is a war for the extension of Muslim identity, with no restrictions or red lines like those observed by early Muslims (cutting people's throats in front of cameras is clearly un-Islamic for any lay Muslim), whereas for classical thinkers it had much more to do with the values and political system associated with the acceptance of Islam, the ideas rather than the identity of Muslims. Indeed, there is no such thing as a holy war in Islam, because no war is holy, and nothing is more sacred than human life. Likewise, the concept and function of the realm of Islam–realm of war dichotomy, which is

mentioned frequently as established doctrine upon which the legacy of war against the opposite abode was legitimate, has been grossly exaggerated and often misrepresented. The notion of *Jahilyya*, which characterises the pre-Islamic society (realm of war), refers in classical Islam to the ignorant and uncivilised conduct of those who do not know or understand the values of Islam, and who are prone to fighting among themselves and violating the rules of war set later by Muslims. One can even say that it refers to a non-civilised society, on the assumption that Islam laid the basis of a new civility. Just like everyone else, they are born with knowledge of God's will but have not yet learned how to recognise and use that knowledge. As pointed out above, *Jahilyya* strongly resembled the Enlightenment notion of the state of nature.

Fundamentalists use the term *Jalilyya* to describe modern Muslim societies, accusing them of not abiding by Islam; they call for a 'return to Islam', but what they mean is an Islam that they have reconstructed to a great extent against many of the civilised notions of early Islamic thought and practice. Moreover, the jihadists argue that each individual has the right to judge what is legitimate and that methods are also justified by necessity.

Such stretching of terms to the extent that they lose their meaning is unacceptable in Islamic jurisprudence, which has developed a very complex and sophisticated glossary, which is subject to strict regulation and management in actual political life (Kazemi 2004: 121–39). Even the word *Shahid*, used to describe a martyr, originally meant in the Koranic language 'upholding testimony' in the religious spiritual sense, and this is synonymous with the original meaning of *Jihad*.

The question that arises is how these concepts came to be distorted by militant Islamic groups in total contradiction to the long-established and authentic traditions of Islamic jurisprudence (Lumbard 2004). This is not just a matter of theology. The Islamic heritage includes not only the religious sciences, as some scholars have rightly observed, but a wealth of rational sciences that are not considered as opposites or mutually exclusive (Nasr 1999: 217–41; 2002: 235–84). Likewise, we also need to ask how the language of the 'war on terror' has instrumentalised both Christian and secular traditions of ethical thought about war and peace.

To what extent then can we recover notions of peace and civility that were developed within those traditions? Can we learn from these traditions and use their arguments to criticise the 'war on terror' and terror? Or does the distortion of these traditions reflect a new reality – the difficulty of applying these traditions in a global era? And if terrorism in Islamic jurisprudence is defined as 'publicly directed violence against which the reasonable citizen, Muslim or non-Muslim, is unable to take safe-keeping measures' (Jackson 2001: 227–51), how is it possible in the case of the modern use of weapons in a nuclear age to differentiate between war and terrorism? And if it is impossible to make the distinction, how can a jurisprudence of disarmament and non-proliferation be developed to save high Islamic virtues and humanity?

Recovering the concepts of peace and civility

The term 'civil society' seems to have lost the civilising connotations of ancient and Enlightenment meanings. It tends to be defined as a 'third sector', between the market and the state, and is often subsumed into emerging globalising concepts like 'governance'. Increasingly, it is being judged by criteria of efficiency and competitiveness that match the measures of success in business. And it is often considered desirable to bring civil society into partnership with the state, although it is not clear whether this will help to 'civilise' the state, or whether civil society will be co-opted by governmental policies and decisions that are far from being 'civilised'.

An exploration of the classical Islamic logic of civility might contribute to developing a more critical assessment of globalisation, help to foster civility in its original meaning and to curb violence. In Islam, violence and civility, or war and peace, are human social phenomena that are bound by time and context, and are both envisioned as part of the development of human history, though peace is seen as a virtue and a goal. War and the resort to violence are seen as an evil but, because they are expected to occur, pre-emptive measures should be taken to manage and minimise them, with the aim of reaching a peaceful settlement. This is a major logic running through many aspects of the *Shari'a*, whether ruling over personal disagreements within the family or violence erupting within the community and even in times of military conflict.

This thinking has many parallels with the ideas of civil society developed by Enlightenment thinkers such as John Locke and Adam Ferguson, as well as later thinkers such as Hegel. They understood civil society as a realm of conflict characterised, according to Hegel (1820/1942: 182A), by 'waves of every passion ...regulated only by reason glinting through'. They stressed the importance of a constitutional framework for managing conflicts, of the free use of public reason by autonomous groups and individuals, and of intermediate organisations that could channel grievances and voice criticism.

Yet Western notions of civil society applied only within the framework of the Western nation state. External policies ruthlessly turned away from notions of civility and indeed, as both Rousseau and Kant pointed out, constrained the development of civility at home. Moreover, the spread of colonialism and the rise of nation states according to the Western model subjected many of the structures of classical Islam to the straitjacket of colonial, or newly created, national authorities. Later, during the second half of the twentieth century, under the slogans of secularism adopted by despotic regimes, especially in the Middle East, the structures of classical Islam were further deconstructed or put directly under the control of the state.

While in some religious traditions the notion of peace seems to imply passivity, patience and the bearing of suffering, Islam introduces a notion of peace that advocates a moral responsibility to act dynamically against the menace of evil and destruction. Here, spiritual *Jihad* comes to the forefront as an individual and collective endeavour to protect and safeguard justice ('*Adl*), which is the ultimate goal of *Shari'a* and its core values (Hanafi 2002: 56–71; Kalin 2005: 327–33). Again, there is a close parallel with Enlightenment thinkers such as Adam Ferguson, who stressed the importance of active citizenship. Muslim scholars and philosophers, such as Al-Farabi, who can be compared to Kant in his search for a notion of universal peace, imagined a global notion of humanity and civility. Today, contemporary Muslim thinkers are trying to develop ideas on civility – how to transform the concept of *Umma* in a global age, and to determine whether it can become a progressive inclusive concept with a wide and pluralistic semantic field and democratic context. These ongoing intellectual struggles could be important contributions to the attempt to build – from

below – a sociology of globalisation (Mandaville 2001: 30–8). This might be the only way to avoid a clash of ignorance as described by Edward Said's response to Huntington, the former being a text that is far less famous than the latter (Said 2001).

These efforts are linked to the sociological critique of modernity. The writings of Bauman (1991) and Taylor (1991) actually resonate with the ideas of Muslim scholars and intellectuals who criticise the social malaise of modernity and the atomistic nature of modern 'togetherness'. The 'urbanized lonely crowd' is characterised by apathy, and an unwillingness or inability to bear the moral responsibility of political decisions; it is easier to go along with authority, even if it leads to violent conflict, than to express dissent or act as a moral agent in challenging the nation state. If the outcome is the 'end of public man', then civility itself is at risk (Sennett 1976/1996). Globalisation can be regarded as an extension of modernity, ever increasing the scale and anonymity of global cities, speeding up the loss of identity, allowing people's lives to be shaped by market forces, and stretching the distance between the citizen and political authority. But at the same time, by challenging the autonomy of the nation state, generating new overlapping forms of authority (global, national, local) and shifting the balance between the market and the state, globalisation offers new spaces for recovering civility. If global civil society is to play a role in combating violence and fostering civility, it has to be through revitalising public man and woman, through restoring social networks and implementing survival strategies that would allow people to claim moral responsibility and challenge the uncontested monopoly of the nation state over the relations of power, the definition of order and the use of 'legitimate' violence.

Any effort to restore the notion of civility necessitates also an understanding of death in its relation to the obligation of citizens, and modernist thinking in a time of terror (Castells 1999). Using the body as a bomb and aspiring to a better life in the hereafter is not only a simple violent act, or a notorious attitude, but the wrong answer to very real questions of alienation, disempowerment and state terrorism. Apart from condemning the killing of civilians, the phenomenon of suicide bombings needs to be understood in its modernist political context rather than a religious context. There is something akin to panic when Muslim religious scholars try to

rule on an issue like suicide bombings. They can easily end up legitimising a violent concept of *Jihad* if they condone such acts of desperate civilian disempowerment against the brutal military arsenal of occupying forces, as in the Palestine case. But, even more importantly, they are caught up in an imagined concept of war that dates back to a society where it was possible to preserve civility while justifying war. In a modern war situation, weapons of mass destruction leave no room to abide by the moral rules that applied during the period of classical Islam, as Arendt pointed out in the quotation at the beginning of this chapter. Abu Bakr, the first Caliph, talked about preserving and protecting the seeds of civility even in time of military confrontation; the idea that these seeds can be replanted in times of peace so that human societies, as well as their natural environment, can prosper again is no longer realistic. Consider, for example, the consequences of the physical destruction of Lebanon for Lebanese society.

Perhaps we should then reflect not only on terror and the 'state of war' but also on the 'war of the state' – namely, the nation state as a source of terror. With its scientific achievements applied to military industries, modernity led to total wars in which the distinction between violence and civility, soldiers and civilians, was increasingly obliterated. The 'new wars', including terror and the 'war on terror', are conducted by networks of state and non-state actors, and the main victims are civilians (Kaldor 1999). These new forms of violence developed as a way round massive concentrations of conventional military force. Because battles, that is, direct confrontations (even those between 'asymmetric' forces like the Israeli state and Hizbollah, or the US armed forces and Iraqi insurgent groups) have become so destructive, and the value placed on individual soldiers' lives so high that they are rarely risked, warring parties fight either by directly attacking unarmed civilians or by attacking at long distance through terroristic air strikes, which inevitably cause civilian casualties.

It is surely useful to draw on religious classical jurisprudence to understand how it was used or abused by terrorist groups and by the 'war of the state', and ask both religious and secular scholars to introduce progressive and civic visions of their respective traditions. In the Islamic context, it is important to grasp the conflict between the authority of the state and the authority of religious scholars,

DELEGITIMISING VIOLENCE

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who have no independence in the secular modern state to condemn its terror policies and criticise its wars. Because they no longer enjoy autonomy from the state, they have lost the credibility that could have allowed them to challenge the claim of religious authority by the terrorists, who developed a discourse drawing on religious texts and distorting their meaning to legitimise their political ends (Lumbard 2004: xi–xv).

The late orientalist Joseph Schacht referred to Islamic law as an extreme case of 'jurists' law'. Islamic law was neither the creation nor the preserve of the early Muslim state. Rather, it developed to a large extent in conscious opposition to the latter. The introduction of Western political, legal and educational structures would bring about important and far-reaching changes, including granting the state a monopoly over the enactment and interpretation of law, a development that marginalised the traditional role of the religious jurists, and profoundly influenced the content of law in all areas except family law. Not only has modern history displaced the sources and substance of Islamic law, but the religious clerics, heirs of the classical tradition, have also forfeited their monopoly over the interpretation of Islamic law. This is partly a result of the attempt by modern Muslim states to marginalise the traditional *Ulama* (Jackson 2001).

Thus the dilemma that Muslim scholars face in an era of globalisation is the task of 'de-terrorisation' (facing militant groups) and 'de-totalitarianisation' (facing authoritarian regimes), while struggling with the consequences of 'de-territorialisation' of their faith communities, which are no longer confined in political boundaries. Moreover, in an age of rising unilateralism and global hegemony, the propaganda of fear and nightmares under the banner of war against terrorism or war against the 'war on terror' overwhelms their tasks.

And the dilemma for Western scholars lies in the fact that concepts of a territorially bounded civil society are no longer relevant. On the one hand, globalisation has brought about what Ulrich Beck calls the debounding of risk (Beck 1992). On the other hand, it has brought about a greater consciousness of genocide and human rights violations in distant places. And this greater consciousness is expressed in the growing importance of human rights and humanitarian law. Thus Western thinkers share with their Muslim colleagues the task of de-territorisation and de-totalitarianisation, including the need to address the security measures that curb civil liberties in democratic Western countries, while at the same time they also have to foster a global concept of civility that can help to underpin new non-state layers of authority and international legal frameworks.

On pre-emptive civility: the might of the word
Islamic and Western traditions both celebrate the might of the word. In Islam the locus of the belief system is the revealed word of Allah (the *Qur'an*), in a faith that believes in the transcendental nature of the divine. In Christianity, too, the word is central and, even if the 'the word became flesh' because the divine is embodied in the human body of Jesus, the word remains the origin and the beginning[1]. The Western tradition of the Enlightenment further fostered the epistemological centrality of reason, and language was the expression of wisdom, hence philosophy as manifestation of human reason vis-à-vis the dominance of divine reason based on faith was the promised alternative to theology.

It is interesting to see how the word started losing its significance and importance with unfolding modernity (to late capitalism) due to the ascendance of both the body and the authority of science (Segel 1998). One reason, it can be argued, is the emergence of the visual, and the rising culture of television and computers, which give different forms of power precedence over the might of the word. War is a manifestation of silencing dialogue, and the sword is usually used when words lose significance in times of conflict. There is a pressing need to take the 's' away from the sword and hail the power of the word in shaping the wor(l)d.

If global civil society is to have a mission at this historical moment of humanity it would be to recapture the power of language and to regain its 'civilising' role, providing a forum for deliberative democracy, re-rooting legitimacy in civil society and highlighting the importance of the politics of presence, not merely representation. The fact that after 9/11, and in the midst of the launch of the war on terrorism, dialogues took place across boundaries, and scholars from the American and the Muslim sides

1 *'In the beginning was the Word and the Word was with God and the Word was God' (John 1:1).*

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(neo-conservatives and Saudi intellectuals) exchanged statements, even if they were confrontational rather than conciliatory, contributes to the expression of conflicts through words rather than bombs. Intellectuals in Germany and France issued statements against the war in Iraq in which they defended and clarified the concept of Jihad and just war in Islam, and detached it from terrorist acts. There were also many micro-and-macro-inter-cultural and inter-faith debates that emerged and developed rapidly (Blankenhorn et al. 2005; Boase 2005). This circle of global civil society activities was often overlooked because anti-war demonstrations and other marches and campaigns attracted more attention, again due to their visual or even screen-cyber 'spectacular' nature.

The fact that individuals in their small circles and in web-chat rooms, and on the screens of local televisions, expressed messages of peace and asserted their values of civility against war and terror (or 'the war on terror') counts a great deal and should be celebrated, cherished and documented. This is the civil alternative to fear that can provide 'preventive democracy' with the needed energy to survive (Barber 2003: 218–32).

One can also find evidence that in many religious traditions, scholars and ordinary citizens are struggling with their understanding of their faith and their world. Muslim scholars have emphasised clearly that any use of weapons of mass destruction would annul the moral commandments of war and the restrictions on killing civilians (Islam On Line URL). They have been more confused about ownership of weapons of mass destruction, arguing that such weapons can be owned for deterrence purposes, although not for use. In the Jewish community, debates on the nature of the Jewish state and the democratic limitations of such an idea are conducted on the theoretical level (Walzer et al. 2000: 463–23). At the political level many Jews have started to question the logic of the use of military power by the Israeli army in the Palestinian Occupied Territory: 'Jews for Justice for Palestine' in Britain was among the first group to issue a statement against the massive Israeli military operations against Lebanon taking place in July and August 2006 (Jews for Justice for Palestinians URL). Israeli peace activists and revisionist Israeli voices condemned the deliberate Israeli attacks on civilians (Ynetnews URL) Indeed, many critical voices could be heard throughout the world especially in the West; a ceasefire petition addressed to the United Nations Security Council collected some 200,000 signatures, while many peace organisations and prominent individuals organised demonstrations and other activities. Can these campaigns provide the basis for a global peace movement that encompasses both those who aim to civilise religion and secular ideologies?

One reason for such serious efforts to piece together the puzzle to form a new image is that the old

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picture seems to have little relevance to the reality of war in our age. In a global world, with the increasing mobility of individuals and groups across the globe, the notion of a territory where an *Umma* is based and confined to political boundaries, is inconceivable. Whether we talk about the Christian, Muslim or Jewish *Umma*, or a secular civil society, the imaginary of a community of believers (or fellow citizens according to modern nationalism) is dramatically changing. Whether a nation or a community of believers can still claim monopoly over space (and time), and disregard all forms of diversity within its realm (including for example, a Jewish state in a form of 'ethnocracy', or an Islamic state uniting Muslims within a frame of *dar al-Islam*) is very doubtful.

This has profound implications for the legitimacy of violence. The outside has become the inside. *Dar al-Harb* no longer exists. There is no external realm of war. Hence the rules of war no longer apply, only the much more stringent rules that traditionally applied to domestic violence. Here, classical Islam has more to teach us than the just war tradition. Since the whole world is a community, everyone is, in effect, a Muslim. Thus the way force is used against dissenters is subject to severe limitations – the limitations that apply to policing in the Western tradition. In a single community, there is no such thing as foreign aggression – violent attacks are crimes or human rights violations. Force is legitimate, under domestic law, in self-defence or to save a third party. But this refers to direct defence, not the kind of 'pre-emptive' or long-distance defence claimed both for air strikes and suicide bombers. Killing of both combatants and non-combatants is wrong. Those who commit violent acts should be arrested and judged in a legal framework. Killing of non-combatants is wrong whether deliberate, as in the case of suicide bombing, or accidental, as the Americans, Israelis and Russians claim.

In general, it is the job of domestic law enforcement to uphold these rules. But even if we live in a global community, there remain separate legal jurisdictions. So what does this argument imply for territories that are occupied or where the state is repressive and acts unlawfully? One answer is that international institutions have a role to play and that, in cases of genocide or other crimes against humanity, there could be a case for an international use of force, if authorised by the United Nations or justifiable in an international court

of law, within very strict limitations about how that use of force is exercised – that is, that it must be defensive and minimise all loss of life; long-distance bombing to stop genocide, for example, is unacceptable. The adoption of the 'responsibility to protect' doctrine by the United Nations is a step in this direction but the implementation of this responsibility has not yet been specified.

The other answer has to do with domestic resistance. In principle, the argument we have put forward suggests that there may be cases where force can be used in purely defensive ways to save lives – this could count as an acceptable *Ta'wil*. In practice, however, the use of force is almost always counter-productive. Even the most extreme occupiers or repressors need legitimacy, as Arendt pointed out. Hence the most effective way to oppose occupation and repression is to withdraw legitimacy and construct a parallel legitimacy within the framework of global civil society. Creating civil spaces and safe havens even in the midst of war and occupation is a much more powerful form of resistance than violence. Indeed, the resort to violence and terrorist acts can be in part explained by the failure of networks of scholars and activists to foster a culture of peace and justice, which has allowed nation states to get away with murder and even genocide, by obscuring these crimes within the discourse of war.

One of the most recent attempts to form a global network of citizens against terror aims to encourage the silent majority of people around the world to speak up, overcome their fear and organise their efforts (Citizens Against Terror URL). More networks on many levels, in different regions, and by as many different people as possible are the only guarantee of universal peace, a goal to which both religious traditions and the Enlightenment's great philosophers aspired.

If the postmodern age is described as the age of the end of tradition, where the tradition of endings has become the fashion in intellectual discourses, global civil society can only strive to prevent one of those endings being...the end of civility.

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