

9

Balancing Security, Risk, and Uncertainty in a World of Contested and Fragmented Sovereignty

JOHN R. EMERY

WHAT ARE THE ETHICAL and strategic imperatives of counterterrorism operations in the world since the September 11, 2001, terrorist attacks on the United States? In an age of globalization, and contested and fragmented sovereignty, how can policymakers, military personnel, and academics conceptualize what it means to wage a “just” counterterrorism “war”? Carl von Clausewitz offered what many considered to be a timeless, trinitarian model of warfare—one that balances the triangular relationship between the people, government, and army. If one seeks to intertwine justice into the calculation, the just war tradition has a deep pedigree in guiding the use of force. However, both the Clauswitzian framework and the just war tradition may be insufficient to address the threat posed by terrorist organizations, which, some argue, lies in the space in between law enforcement measures and war.¹ With regard to the former, insofar as war is no longer defined by a clash of armies on the battlefield (see Vilmer’s chapter 5 above), the government may be more isolated from public critique because there is less need to send the armed force to full frontal battle. The notion of combat as defined by decisive battles, though central to Clauswitzian thought, does not fit the paradigm of war on terrorist groups.² Regarding the just war tradition, questions about so-called new wars—against nonstate actors—raise serious concerns about the frameworks’ applicability to

such contexts.³ To quote Ian Clarke, the challenge is this: “The ethics of war do not apply to anything that is ‘non-war,’ and hence we need to resolve the war/nonwar issue before the ethics can get fully down to business.”⁴ I assert that the traditional Clausewitzian and *jus ad bellum* frameworks fail to capture the essence of contemporary terrorist activities and counterterrorism measures, which are not exactly war.⁵ But if we cannot turn to just war frameworks, where can we turn? The fact that, fifteen years after 9/11, there remains little consensus on which counterterrorism measures are effective demonstrates the need for a more rigorous development of frameworks for thinking about counterterrorism, and how common strategies have been effective or detrimental to the security environment.⁶

To better navigate the challenges the threat of global terrorism poses both domestically and internationally, I propose an alternative trinitarian model that seeks to balance security, risk, and uncertainty.⁷ This framework can be viewed as complementary to the *jus ad vim*—just use of force short of war—paradigm developed by Daniel Brunstetter in chapter 11, because it questions the resort to war to counter the threat from terrorism, while emphasizing both measures short of war and potential law enforcement mechanisms that are available to fight globalized terrorist networks.⁸ As a framework, it can help us to think through what is at stake in countering terrorism with specific means, which can in turn help inform our ethics.

The challenge for states to keep security, risk, and uncertainty in balance in the fight against terrorism should not be underestimated. It is difficult for a leader to publicly accept that the state—and its citizens—can never have complete security, achieve true certainty about eventual threats, or be completely free from risk. Thus the danger of getting the balance between them wrong is all too real. Recent examples—the United States after the terrorist attacks by al-Qaeda on 9/11, and France after the ISIS terrorist attacks on 11/3—are all too illustrative. Being subject to dramatic terrorist attacks almost inevitably leads to an increase in uncertainty, which in turn—in these cases, at least—prods the affected states to act firmly and swiftly militarily, believing that this will decrease risk and increase security. A military reaction to the crisis of the moment could be justified as an act of self-defense against a continuous threat, insofar as terrorist groups are rarely in the business of isolated attacks.⁹ However, as the creation of ISIS and the expansion of terrorism in the chaos resulting from United States–led wars in Afghanistan and Iraq demonstrate, the impulse to respond militarily can be counterproductive. Could the same be true for the reaction of various states—especially France—to attacks perpetrated by ISIS? These questions get at the heart of the challenges associated with balancing uncertainty, risk, and security.

In this chapter, I pursue the idea that states acting on an increased perception of uncertainty, and that thus are compelled to “do something”—usually, act firmly and swiftly *militarily*—may actually increase risk and decrease security, while doing little to overcome uncertainty. Therefore, the tendency is for states to overreact to terrorism by giving uncertainty too much emphasis. The angst of uncertainty—when and where the next attack may occur—coupled with the perceived need to completely “eradicate” or “destroy” the enemy in order to eliminate any risk and provide for perfect security, prompts states to use force abroad, while undermining their (alleged) liberal values at home. But what if, as O’Driscoll intimates in chapter 14, victory in such conflicts may be impossible? What does this imply for the balancing act I view as being at the heart of the fight against terrorist groups?

I suggest, first, that there is a wrong way of balancing. The fight against ISIS is illustrative here, and I return to it throughout the chapter. It captures the challenges of using force in an era of contested and fragmented sovereignty. ISIS is involved in a battle for sovereignty in Iraq and Syria, while its reach transcends traditional borders as its operatives communicate with would-be recruits in foreign lands to establish terror cells. Meanwhile, Western states are called upon to manage refugee flows and tighten border security, which has even led to questions about the viability of the European Union’s free travel zone. And of course, nations like the United States, the United Kingdom, and France are using force abroad to combat ISIS. The use of force abroad and more draconian measures at home gives the impression that the risk of terrorist attacks against “our” civilians in the future is reduced, thus increasing the security of “our” civilians, but I want to suggest that such a strategy may actually have opposite affects. In terms of uncertainty, the use of force probably does little to affect the lingering doubt that some attack will come sooner or later. By transferring greater risk to one’s own civilians, who become subject to retaliatory attacks, such a strategy may serve to diminish the security of Western states in the long run, especially in a perpetual conflict against jihadist groups. Finally, absent the possibility of final victory, what must amount to a perpetual campaign to preserve “our” security transfers greater risk to those living under the yolk of the targeted terrorist group—in this case, civilians living under ISIS now, or those who may be subject to its rule if the group spreads (or flees to other spaces of contested and fragmented sovereignty, e.g., Libya).

What, then, is the answer to balancing risk, uncertainty, and security? In this chapter I do not seek to propose definitive answers to the complex challenges of neo-Clauswitzian balancing in counterterrorism operations. However, I do strive to offer key insights drawn from recent counterterrorist operations against ISIS in order to provide guiding questions for a possible path forward

in debating and discussing the contemporary ethics of counterterrorism. Ultimately, this chapter is the first step in developing an alternative conceptual framework to supplement *jus ad vim*, a framework that strives to manage uncertainty and diminish risk, albeit with the recognition that neither can be completely eliminated.

RISK-TRANSFER WAR IN AN ERA OF CONTESTED AND FRAGMENTED SOVEREIGNTY

How does engaging in counterterrorist activities make an impact on risk? To address this question, we need to think about *who* is being put in positions of *risk* by what kinds of activities. In this section, I sketch the ways in which the risk of being killed or injured in counterterrorism operations has been transferred from Western belligerents to civilians, both those on the ground living under ISIS and those at home living in the West (in addition to other places around the globe, from Mali to Lebanon and beyond, who have also been targeted). The term “risk-transfer war” is borrowed from Martin Shaw to describe the new Western way of war, whereby soldiers are kept free of risk by keeping boots *off* the ground, relying on high-altitude air campaigns and on local allies.¹⁰ The blame for civilian casualties is already deemed always accidental, although Shaw argues that this is “hardly accidental,” for it is “the product of political choices in the refinement of Western military power.”¹¹ Shaw concludes that the risks have been transferred from Western combatants to civilians, and that civilians “being directly killed is deliberate and systematic.”¹² Although I may not go as far as Shaw, his discussion of risk transfer raises important questions that deserve further exploration in the fight against ISIS: What might due care look like today, given that ISIS essentially uses entire populations as human shields? What level of risk are we willing to impose on them to increase our level of security—and for how long; indefinitely?

Understanding Risk in an Era of Blurred Civilian/ Combatant Distinction

If due care is difficult to enact in warfare where the enemy wears a uniform, soldiers are interacting on the ground, and civilians are easy to distinguish, it is even more challenging in a counterterrorism campaign operated from the skies.¹³ The fight against ISIS serves to illustrate just how blurred the distinction can become. In Raqqa, the self-proclaimed capital of the Islamic State, ISIS has subjected civilians to harsh and inhumane treatment, instilling fear in the population, and forcing many to participate in their cause. The fate of children

in Raqqa is equally troubling. ISIS members befriend children playing in the streets, enticing them with gifts like candy or a mobile phone, and then send them to ISIS training camps, where they are radicalized with an extremist form of Islamic teaching.¹⁴ Finally, there are the hundreds of thousands of civilians who are practically the equivalent of human shields living among ISIS military positions.

Keeping all this in mind, what is the West to do? How should calculations of risk transfer be balanced with the struggle for our security, insofar as bombing ISIS in Syria serves more to diminish their power than to defeat them? Although the only likely way to defeat ISIS in Syria would be to send in ground troops—a problematic assumption by all accounts, and especially given what Orend shows us chapter 13 below about the *post bellum* experiences in Iraq and Afghanistan—is more bombing the answer? The answer seems to be yes.

Just six days after the Paris attacks, the Pentagon changed its rules of engagement, acknowledging that the coalition was seeking to increase air strikes by changing the standing policy that had aimed at protecting against civilian casualties in ISIS-held territory.¹⁵ This marked a conscious decision to intensify the bombing—transferring more risk onto civilians *over there*—when the perception was that ISIS was a great threat to *our* security in the West after the Paris attacks. Following the Paris attacks, there was an increased outcry from the West to push for targeting ISIS's oil infrastructure, including tanker trucks, which were previously not struck due to concerns about civilian casualties. According to Operation Inherent Resolve spokesman Colonel Steve Warren, this had not previously taken place because “we assessed that these trucks, while they are being used for operations that support ISIL [another name for ISIS], the truck drivers, themselves, probably not members of ISIL; they're probably just civilians. So we had to figure out a way around that. We're not in this business to kill civilians, we're in this business to stop ISIL—to defeat ISIL.”¹⁶ In order to minimize civilian casualties in striking these civilian-driven trucks, 45 minutes before striking the air force would drop leaflets stating: “Get out of your trucks now, and run away from them” along with a show of force, having aircraft “essentially buzz [above] trucks at low altitude.” However, there is always a problem of interpretation, which we have seen previously in Afghanistan, where the assumption is that all these truck drivers are literate (which is a problematic assumption) and that the “show of force” will be interpreted in the way it is intended by US forces.

There are two further problems in the targeting of the oil infrastructure beyond the issue of civilian truck drivers. Daniel Glaser, the assistant secretary for terrorist financing at the US Treasury Department, acknowledged that oil was in fact the third-largest source of income for ISIS, whereas extortion was

the largest source.¹⁷ Although, with the leaflets being dropped, one could say that the United States is exercising “due care” to prevent civilian casualties (if we assume the drivers are literate and interpret our actions the way we expect them to), there is still a concern that targeting oil infrastructure is not the panacea politicians claim it to be. Furthermore, there is a concern about how this would negatively affect the postwar environment (if and when that occurs), which emphasizes the importance of *jus post bellum* (see the lessons proffered by Brian Orend in chapter 13 of this volume). Such a short-term policy assessment indicates that although the postwar climate may be in the back of the minds of policymakers, it is a concern of the secondary order.

At the time of writing (late 2016), the United States has promised to provide air support to Kurdish forces intent on taking Raqqa. This strategy obviously transfers a huge risk to civilians living there (witness what is happening in Mosul today, as Iraqi forces move in to liberate the city street by street). Perhaps this is a necessary part of any war, but even this assumption does not mean we should ignore the interplay between risk, security, and uncertainty. This is especially true given some of the arguments presented in this volume. We should, as O’Driscoll shows in chapter 14, be wary of assuming that victory is even possible in these kinds of wars. And in chapter 8 Kelsay points to a deeper problem, that the struggle against jihadist groups will outlive whatever happens on the battlefield. If there is no concept of victory against groups like ISIS because we are fighting a generational, transglobal struggle, how do we evaluate whether to intensify the fight? Here is where thinking about the balance between risk, security, and uncertainty can be helpful, and especially to keep in mind whose risk and whose security are being increased or decreased.

Risk Transfer to Civilians in the West

Perhaps some individuals reading this chapter would argue that the fact that Iraqi and Syrian citizens die in these bombing raids is tragic, yet unavoidable, given the way ISIS operates. However, it is important to realize that while the risk has been transferred from Western combatants to foreign civilians, the risk has also been transferred to Western civilians in the process. The uncertainty brought about by a sophisticated ISIS propaganda campaign and the horror it incited in the West, accompanied by a territorial acquisition that was previously thought impossible for a terrorist group to achieve, were key factors that led to a United States–led coalition to act militarily to retake land occupied by ISIS. It is easy to forget that, initially, ISIS was solely focused on gaining geographic territory and establishing a caliphate in the vacuum created by the ongoing Syrian conflict and the instability left in “postwar” Iraq. However, in

August 2014, after the United States–led coalition began launching air strikes against ISIS targets, ISIS made a major policy shift, from that territorial acquisition to attacks against the West. As a consequence, the group’s spokesman, Abu Muhammad al-Adnani, responded with a call for supporters to carry out lone-offender terrorist attacks targeting the West.¹⁸ Citizens of the coalition, he warned, will “pay the price as you walk on your streets, turning right and left, fearing the Muslims. You will not feel secure even in your bedrooms. You will pay the price when this crusade of yours collapses, and thereafter we will strike you in your homeland.”¹⁹

The Guardian interviewed two ISIS members, who discussed a meeting before the Paris attacks, where the ISIS leaders met in the Syrian town Tabqah near Raqqa in order to discuss the evolution of the group. At that meeting, the leaders acknowledged that they could not continue to hold territory, given that fourteen air forces were constantly bombarding them—by the end of 2015 and early 2016, ISIS lost roughly 30 percent of the territory it had once controlled.²⁰ Instead, the group decided to export its terrorism to Europe, as geographic control in Iraq and Syria became less of a priority than influencing faraway societies. Allegedly, a handful of foreign fighters were sent back to their home countries to form classic sleeper cells and to prepare and wait for orders; this new wave would place emphasis on wreaking havoc in Italy, Belgium, France, Germany, and the United Kingdom. According to the two ISIS members interviewed, “[the leaders] said the UK was the hardest to get to. But Belgium was easy.”²¹ Furthermore, the leaders expressed a deep understanding of European political architecture: “At the meeting, they talked about which societies would crumble first and what that would mean. They thought big attacks would lead to pressure on the European Union and even NATO. This would be ideal for them.”²²

Thus, what is clear is that ISIS did make a conscious shift from controlling territory in the Middle East to exporting terror to the West. The leaders now contend that controlling geographic territory was only ever a means to the ultimate ends of spreading its influence far and wide.²³ In addition to recruiting fighting from abroad to strike abroad, there is another problem. Assuming, for the sake of argument, that ISIS could be defeated in Syria and Iraq, we would likely see an exodus of existing fighters who would carry out suicide missions elsewhere. This would probably start to occur even before this hypothetical “victory,” if the coalition force were able to strangle ISIS holdouts. ISIS operatives would move out to stage the fight from somewhere else, that is to say, by transferring the risk to other populations. This may already be occurring in Libya. And if Kelsay’s analysis in chapter 8 is correct, the struggle against and risk from jihadist groups will not be abated even if the caliphate is dismantled.

Within the counterterrorism literature, the shifting of ISIS's modus operandi from territorial acquisition to attacks in the West is termed the "substitution effect." The idea that the West can deter terrorists from attacking by bombing instead of doing diligent police work at home is political—in the call to "do something" militarily as a show of force (explored below)—and simultaneously increases risk and decreases security at home. As Isabelle Duyvesteyn notes: "The idea of deterring terrorists is indeed problematic, because if the deterrence is successful, it can promote a 'substitution effect' where terrorists shift their mode, venue, or country of attack. There is indeed strong empirical evidence for the substitution effect of terrorism."²⁴ Although there may be evidence against responding militarily, this is something politicians *do* in order to not appear weak at a time of psychological vulnerability and uncertainty. However, it is times such as these where *jus ad vim* calls us to take a step back and evaluate the situation through the lens of possible law enforcement measures before escalating to even limited military force abroad. As we know empirically, "military measures against terrorist activities have been indicated to possess a high risk of escalation"²⁵

As ISIS exports terror to the West (and beyond), police work and intelligence sharing between countries are imperative to help prevent Paris-or Brussels-style attacks from occurring again. Diligent police work can combat these sleeper cell-type individuals and groups. However, those who are simply inspired by ISIS, like the San Bernardino couple who attacked a holiday party in California and the perpetrator of the Orlando massacre, are almost impossible to prevent. This is not a small point. The fact that there can *never* be complete *security*, *zero risk*, or complete *certainty* is essential to understanding the nature of the contemporary threat posed by nonstate actors and keeping the triangle in some sort of balance. Although the uncertainty caused by ISIS prompted a military response that is showing signs of success, in the sense that much of the territory acquired by ISIS has now been retaken, this success has been met with increased risk and insecurity at home. Even though the threat posed by lone-wolf attacks against the West remains statistically small, if uncertainty is given too much space, the psychological impact is indeed as Abu Muhammad al-Adnani had explained above: People are afraid as they walk down the streets, and are fearing Muslims in their own communities. Needless to say, alienating, marginalizing, and making Muslims feel like second-class citizens in their own homes in the United States, France, Belgium, and the United Kingdom is exactly what ISIS had hoped for, exasperating the sense of fear, leading to a knee jerk reaction to do something that ultimately may reduce security.

MANAGING UNCERTAINTY TO REDUCE RISK AND INCREASE SECURITY

I have argued above that the increased uncertainty from threats by terrorist groups such as ISIS has led to a military response that has been successful in diminishing the territorial control of ISIS, but has had the unintended consequences of increasing risk and decreasing security for civilians both living under ISIS and going about their daily lives in the West.²⁶ As I have alluded to in the introduction, and as Daniel Brunstetter discusses in chapter 11, a military response is sometimes, but not always, the best means to fight terrorism, because law enforcement can often be sufficient. His framework of *jus ad vim* recognizes that there is an in-between space (as Michael Walzer termed it) that is neither a state of war nor a state of peace. Such spaces are typical of the uncertainty that the fight against terrorism produces, not simply in faraway places but also—if we are to take the threat by al-Adnani seriously—walking the streets at home. Who is the enemy? When will the next attack occur? What rules do we fight by? When will we “win”—if ever—so we can get on with our normal lives?

In this section I offer one possible path forward to manage—as opposed to decreasing or eliminating—uncertainty, which can in turn reduce risk (for some) and increase security (again, for some). As a first step, we need to conceptually understand the nature of the enemy that we face in order, to borrow a phrase from Kelsay in chapter 8, better read the “signs of the times” to ascertain when, and with what kind of force, we should act. Echoing what Kelsay argues—that just war thinking needs to take better stock of the complexity of the context, and consequently the nature of the enemy—I suggest that exploring the psychological process of “Othering” illuminates the negative impact of treating ISIS as a homogeneous and cohesive organization—like a state—as opposed to a loosely affiliated terrorist network plagued with infighting, suspicion, and divergent goals among its own members. Beyond the rhetoric of “good versus evil,” “the clash of civilizations,” and so on, there is a real security threat posed by ISIS-like terrorism; however, this threat is magnified, based in part on our reaction to it. When we homogenize the enemy into a state-like entity or a civilization, instead of recognizing the fact that these are loosely affiliated terrorist organizations, one misunderstands the enemy. To base further decisions on how to “defeat” this enemy—really, an ideology that can never be “defeated”—is a false premise. Again, I point the reader to Kelsay’s illuminating discussion of jihad as an individual duty in chapter 8. What I hope to demonstrate below is a way to de-homogenize the enemy and recognize

them for who they are and the realistic threat that they pose. This can, in turn, put the psychological uncertainty that terrorism presents into perspective. The goal is to clear the ground for a counterterrorism framework that, by managing uncertainty, reduces the risk and security threat posed by such groups.

Constructing the Enemy

The psychological processes of in-group and out-group formation are essential to how one tends to construct the enemy, especially loosely affiliated terrorist organizations. The constructivist Paul Kowert discusses the psychological components in identity formation of groups. In essence, “people tend to exaggerate their perceptions of others in order to make memory and categorization easier.”²⁷ As a result, distinctions between members of different groups are often exaggerated, while simultaneously there is greater perceived intragroup homogeneity. In other words, because out-groups are perceived as homogeneous, their behavior is more easily explained as the result of positive intent. This bias leads to the tautological perception that all behavior of powerful out-groups is intentional (“since they are powerful, they can do whatever they want”).²⁸ Thus, in the United States one tends to view the out-group of terrorists as far more homogeneous than their loosely affiliated network is in reality. Furthermore, ISIS propaganda is so powerful *because* the members of the out-group views power through their professed intentions rather than their situational constraints. For example, the *uncertainty* arising from individuals acting in the name of ISIS with no physical connection to the group (like the Orlando shooter) creates a feeling that ISIS is omnipresent and that it intends to plant sleeper cells everywhere. Now, this is part of its expressed policy; however, it also capitalizes on the psychological impact that terrorism has in making the stronger enemy destroy itself from within by sparking fear and overreaction. In chapter 2 of this volume, Lindemann and Giacomelli’s discussion of recognition theory, particularly the construction of the Other, is useful to supplement the discussion here of the construction of ISIS as the homogeneous enemy.

It is true that ISIS is far more organized and “homogeneous” than al-Qaeda was in the post-9/11 era. At a superficial level, al-Qaeda was concerned with its war against the West, utilizing whatever safe havens it could to launch and coordinate its operations; whereas ISIS’s initial intention was more that of a traditional military power—that is, conquering territory and amassing military weaponry by capitalizing on the volatile situations of contested and fragmented sovereignty in Syria and Iraq. There are consequences to failing to read the enemy accurately. Seth Jones recognizes that in the early 1990s, the United States failed to capitalize on internal divisions within al-Qaeda in its initial law

enforcement and military measures against them. For example, as Ayman al-Zawahiri called for a military jihad against the Egyptian government, others such as the leaders of the Egyptian Islamic Jihad and the Muslim Brotherhood advocated for “a return to *da’wa* and a move away from violence,”²⁹ believing that Zawahiri had “grossly misinterpreted Islam.”³⁰ Even after the 9/11 attacks, Sayyid Imam Abd al-Aziz al-Sharif—the former leader of the Egyptian Islamic Jihad and a friend of Osama bin Laden—condemned the attacks, calling them “barbaric and un-Islamic.” Al-Sharif wrote that bin Laden had betrayed Mullah Omar and the Afghan people by orchestrating an international terrorist attack while living on Afghan soil, thereby condemning “Afghanistan and its people . . . [to] pay the price” with America’s military response.³¹ Recalling Kelsay’s point in chapter 8, which I wish to highlight here, the United States tends to misread the context and see black and white where there are many shades of gray; thus, the problematic tendency is to create homogeneous groups of outsiders when the reality is much different. Although this homogenization may score political points—both in rhetoric and in notching small victories in the so-called war on terror—it is a false portrait of the enemy and undermines ways in which one could conceivably have the best chances of mitigating risk while undermining terrorist organizations from within.

I do not want to suggest that ISIS and al-Qaeda are the same type of organization or possess the same military power or global reach; nevertheless, the West’s war against al-Qaeda should provide some lessons learned for how to fight ISIS. Current strategies against ISIS allegedly have had some success in diminishing the territorial gains the group had made during the years 2014–15. In January 2016, US Army colonel Steve Warren, the US Coalition spokesman, told a press briefing in Baghdad that ISIS had lost about 40 percent of its territory in Iraq and in “Syria, harder to get a good number, we think it’s around 20,” together losing “30 percent of the territory they once held.”³² At the time of writing, more territorial loss happens almost on a daily basis. Nevertheless, the loss of a substantial amount of territorial control by ISIS is a “victory” that should be taken with a grain of salt. As the terrorist attacks in Paris, San Bernardino, Brussels, and Orlando demonstrated, bombs realistically cannot defeat the ideology and broader appeal of ISIS, which feeds off such a military response.

The group homogenization process I have described, along with the attribution of positive intent, has created in the Western psyche a barbaric ISIS that is as powerful as its propaganda videos would make one believe. However, the reality on the ground for ISIS fighters is allegedly quite different. A recent video taken from the body-camera of an ISIS fighter after being defeated by Peshmerga forces outside Mosul demonstrates utter disarray and a lack of fighting

skill.³³ Not only were the ISIS fighters in improvised armored vehicles, but also they argued with one another about how to fight, and one almost launched a rocket into their own truck, as he did not want to expose himself to enemy fire. We are beginning to gain more and more insight from ISIS foreign fighters who went to join the movement abroad and then returned home after realizing that they had made a mistake, such as one UK citizen named Harry Sarfo who is currently facing terrorism charges in the United Kingdom after fleeing the group's brutal regime.³⁴ Sarfo believed the "daily life" propaganda videos when he decided to join the fight in Syria, but he found that the reality was "astounding hardship and brutality," where many Westerners who wanted to flee home were trapped and faced execution for attempted desertion.³⁵ The point here is that spreading this message and funding anti-extremist Muslim organizations at home may be a more effective use of funds in preventing homegrown terrorists from either joining the fight in Iraq and Syria, or being inspired to undertake lone-wolf attacks. By capitalizing on infighting and discontent, we can begin to de-homogenize the Other.

De-homogenizing the enemy helps us to manage, but not eliminate, uncertainty about when the next attack might come or who is likely an enemy among us. This is an important step in not giving into fear, in avoiding the reaction to act forcefully at the level of war that may have unforeseen—and perhaps destabilizing—security and risk consequences.

THE TRINITARIAN MODEL AND MILITARY ETHICS

In the aftermath of a terrorist attack, there is often the urge, and public outcry, to "do something." In the post-9/11 era, and after the experiences of Iraq and Afghanistan, that "something" to be done has been expanding a military campaign abroad—whether with bombing campaigns, drones, or special forces—as well as expanding law enforcement privileges that undermine alleged "liberal democratic values" at home. However, some academic research questions the effectiveness of privileging both the military strategy and the challenge to democratic values at home.

For example, Isabelle Duyvesteyn explores the military effectiveness of counterterrorism; she views the prioritization of military means as problematic, because it undermines other "soft measures" such as traditional law enforcement. When you approach your enemy from a military manner, "the effectiveness of subsequent 'soft measures' can be questioned," such that the former reduces the effectiveness of the latter.³⁶ In the face of terrorism, both ethically and strategically, all measures short of war must be reasonably attempted before engaging in or escalating to significant military engagement

abroad. The problem lies in the fact that “counterterrorism has a strong tendency for *reactive* rather than *proactive* measures. This fits with the ‘something must be done’ calls after terrorist attacks” (emphasis added).³⁷ It also plays into the dangerous norm of preventive force (especially with drones) discussed by Fisk and Ramos in chapter 4.

Regarding law enforcement, David Luban argued after 9/11 that because the war on terror appears as though it will go on perpetually, “the suspension of human rights” characteristic of US policy “is not temporary but permanent.”³⁸ Among other things, Luban’s critical remarks were referring to the refusal, to suspected terrorists, of the right to due process, as the George W. Bush administration instead pursued a problematic preventive force doctrine to fight terror (see chapter 4, by Fisk and Ramos). Although law enforcement in a time of terror may be difficult, given the perception of uncertainty that permeates society, it should not, however, be discarded. Mark Hamm emphasizes that by focusing on the small-scale crimes that facilitate complex terrorist organizations, “investigators may well preempt larger operations designed to kill thousands of innocent people.”³⁹ This is a different risk management strategy compared with the prolonged—some might say permanent—emergency measures taken after 9/11 and 11/13 that have undercut democratic values, and arguably have led to social profiling that exacerbates the alienation of certain populations within society and thus potentially increases perceptions of uncertainty and security in society.

In the remainder of this chapter, I seek to begin a discussion of what specifically this trinitarian model and managing uncertainty may do, both strategically and ethically. First and foremost, I assert that insofar as it informs ethics, it offers a counter to the consequentialist model that permeates some analyses of war. The fundamental flaw with the consequentialist model (as promoted by Vilmer in chapter 5) is that though it is difficult enough to predict the short-term consequences of our counterterrorist actions, grasping the long-term impact—of equal or greater importance—is even more difficult. Given that “we simply know too little about whether force works against terrorists, apart from indications that there are real drawbacks,” it may be prudent to take a step back from consequential ethics and rethink our traditional frameworks of the ethics of war and peace.⁴⁰

Vilmer makes the consequentialist case for targeted killing by drones as the lesser of evils in contemporary warfare—thus reducing uncertainty and increasing our security with limited risk (compared with alternatives) to civilians. While acknowledging that the United States’ practice has been far too lax, with signature strikes and the like, he argues that civilian casualties by drones ought to be compared with the alternative—for example, the Pakistani troops in the

Battle of Swat. However, I would argue that such consequentialist calculations are a dangerous game to play. When asking “What is better for Pakistani civilians?” Vilmer argues for drones, but he does not seriously engage with the question of risk transfer.⁴¹ Nor does he take into account concerns regarding the broader kind of uncertainty that define the struggle against terrorist groups—namely, that the enemy is out there somewhere hoping (ready?) to strike; drones are simply assumed to reduce uncertainty, based on the observation that al-Qaeda has not struck the United States since 9/11, though it has struck many other populations, especially locally, where it is based. Again, the question of risk—whose risk?—comes to the fore. This also raises questions about the efficacy of military measures that privilege our security over others’ security in the long run. As ISIS shifts its strategy to targeting Westerners, these concerns will become more and more significant, even as we turn to drones to hunt ISIS operatives down wherever they may flee.

To the extent to which one may agree with Vilmer that consequentialism may indeed be the least-bad option in evaluating drone strikes, the trinitarian model I suggest adds the following caveats to think about. By thinking more about risk transfer, we turn our attention to the major concerns about the impact drones are having on the next generation of Pakistanis who live under the risk of “a strike from the blue,” and the impact this might have on the possibilities for future terrorist recruitment. Thinking about managing uncertainty also requires us to imagine the possibility of a never-ending drone campaign, and to consider how this fits into a consequentialist ethics. It is hard to be a consequentialist unless one only thinks of the short term; balancing uncertainty with risk and security in the framework I propose, however, proffers an alternative conception of temporality that is perhaps more appropriate for a generational struggle against groups like al-Qaeda and ISIS.

As a counter to consequentialism, the trinitarian model can, I suggest, complement an ethics based in *jus ad vim*. By managing uncertainty, and diminishing the drive to “do something” militarily, space is provided for a more holistic understanding of what security means in an era of nonstate terrorist networks that privileges measures short of war. As Andrew Silke has argued, “Ultimately harsh, aggressive policies in response to terrorism fail so often in their stated aims, because they so badly misunderstand and ignore the basic psychology of the enemy and of observers. Strength and power alone are not enough to defeat terrorism.”⁴² Both my trinitarian framework and *jus ad vim* (discussed by Brunstetter in chapter 11) begin with the premise that contemporary terrorist actions often take place in the space between law enforcement and war—something must be done, but perhaps war is too much but law enforcement is not enough. That said, the *jus ad vim* framework’s ethical machina-

tions can benefit by paying more attention to the relationship between risk, security, and uncertainty.

There remain many barriers to effective law enforcement, such as a lack of intelligence sharing, as well as the threat of undermining liberal values at home by establishing permanent emergency powers over your populations; nonetheless, this must be a part of the counterterrorism discussion. To quote one scholar: “It is clear that ideas and conceptions held about terrorism influence the choice for a particular counterterrorism strategy. When terrorism is seen as war, counterterrorism favors repressive measures; when terrorism is seen as criminal, it favors judiciary responses.”⁴³ Hence, the ethical frameworks that we utilize have a real impact on the sorts of doors that we open and close in response to the contemporary terrorist threat, and ultimately on *managing* uncertainty. Through the lens of *jus ad bellum*, the United States, France, Belgium, and the like have a just cause to engage with ISIS militarily in Iraq and Syria; yet *jus ad vim*, if informed by the trinitarian model, suggests an alternative framing of the issue: Is escalating to an air campaign the necessary and proportionate way to manage uncertainty and risk at home? If coalition forces are successful in reestablishing territorial integrity in Iraq and ISIS is driven from Syria, how would the morphed ISIS threat be managed? Answering these questions asks us to balance the level of force, with risk (at home and abroad), without placing too much emphasis on eliminating uncertainty or seeking perfect security.

CONCLUSION

The “war on terror” may never be “won,” because victory is a notion whose time perhaps has passed (see O’Driscoll in chapter 14). However, recognition that one can never have complete security, but that risk can be minimized and uncertainty can be managed, ought to be the foundation upon which we build a coherent counterterrorism strategy. By decreasing the psychological uncertainty that terrorism produces through de-homogenizing the Other, risk can start to be mitigated through diligent police work at home and intelligence gathering abroad. For example, following the most recent attacks in Brussels, the French government released an eighty-point plan to combat homegrown terrorism that included setting up dozens of de-radicalization centers.⁴⁴ Young would-be ISIS recruits at home need to hear the experiences of those who come back from radicalization—like the UK citizen Harry Sarfo mentioned above—because the de-radicalized understand the appeal that ISIS propaganda has and what it is really like to be there when the cameras are not on. Furthermore, focusing on policing actions where feasible—and treating terrorists as criminals,

as the West did in the pre-9/11 era—all ought to have a positive impact on security at home, even if uncertainty cannot be not eliminated altogether. By concentrating on stopping criminal activity, such as breaking up funding and arms trafficking rings, one can hope to disrupt the operations of these organizations before they can carry out attacks, but not necessarily “win” the generational struggle against them. Regarding managing uncertainty, terrorist attacks will still occur; no amount of spying by the National Security Agency or ethnic profiling could prevent some ideologically driven individuals from carrying out such acts. However, with a more cohesive guiding framework, we can at least aim to not further exacerbate bad situations by placing too much emphasis on reducing uncertainty by undertaking actions that increase risk and insecurity at home in the long run.

Unlike actions following the terrorist attacks in Paris, the trinitarian model seeks to avoid both perpetual imminence and a constant state of emergency at home as well as increased bombing campaigns abroad; let us not forget that the threat posed by ISIS and like-minded organizations to the West remains relatively small (only 2 percent of those killed by ISIS in 2015 were Westerners).⁴⁵ Recognizing this means that in cases of *lagged imminence*—where there is lower risk, yet an element of uncertainty remains—law enforcement must be the primary means to disrupt terrorist activities.⁴⁶ Ultimately, attempting to keep security, risk, and uncertainty in balance is necessary to avoid a detrimental overreaction to terrorism. A knee jerk reaction—the “we must do something!” effect—to quell uncertainty too often undermines liberal democratic values at home, while also increasing the risk to alternative populations both at home and abroad.

Balancing security, risk, and uncertainty at home as well as abroad in an era of contested and fragmented sovereignty contextualizes the natural urge to create a permanent state of emergency, which ultimately undermines liberal values at home, in light of the terrorist threat. Such a balancing act recognizes that we can never eliminate all risk or uncertainty, no matter how much we compromise our values—a point David Luban made after the 9/11 attacks that is worth repeating in the era of ISIS.⁴⁷ Rosa Books is right in recognizing that we need to move beyond the political posturing that characterizes most public debates about counterterrorism and instead speak honestly about the costs and benefits of different approaches. Most important, we need to “stop viewing terrorism as unique and aberrational as the more we panic and posture and overreact, the more we decrease our security and increase our risk of terrorism.”⁴⁸

Where, then, are we left with an incoming Trump administration and a few years into the war against ISIS? After 17,005 coalition air strikes in Iraq/Syria (at an average cost of \$12.6 million per day), ISIS has lost about half the terri-

tory it once controlled; yet it has inspired more attacks in the West, such as those in Paris, Nice, and Berlin.⁴⁹ These coalition strikes have killed an estimated 45,000 “enemies” with a suspiciously impressive 188 civilian casualties.⁵⁰ There are, of course, many questions that remain to be answered. I recognize, for example, that my conclusions leave the question of “liberating” ISIS-controlled cities unanswered; in Iraq, this is ultimately the challenge that the Iraqi government must face, and the extent to which it needs international help, the framework I provide could still prove useful to help discern what level of help with what consequences regarding risk and security. In Syria, it is perhaps an international problem, with all the challenges that reaching a consensus that would work for the concerned parties entails. However, rebuilding the conceptual apparatus we have for engaging in counterterrorism, both strategically and ethically, is a first and crucial step, upon which we can build a coherent strategy that, by managing uncertainty, increases security while reducing risk—to some, at least.

NOTES

1. See Daniel Brunstetter, chapter 11 of this volume. Also see Daniel Brunstetter and Megan Braun, “The Implications of Drones on the Just War Tradition,” *Ethics and International Affairs* 25, no. 3 (2011): 337–58; and Daniel Brunstetter and Megan Braun, “From Jus ad Bellum to Jus ad Vim: Recalibrating Our Understanding of the Moral Use of Force,” *Ethics and International Affairs* 27, no. 1 (2013): 87–106.

2. Antulio J. Echevarria II, *Clausewitz and Contemporary War* (Oxford: Oxford University Press, 2007), 6; also see Clausewitz’s emphasis on great battles as decisive in warfare: Carl Von Clausewitz, *On War*, ed. Michael Howard and Peter Paret (Princeton, NJ: Princeton University Press, 1976), book IV, chap. 11, 260.

3. See, e.g., Terrence K. Kelley, “The Just Conduct of War Against Radical Islamic Terror and Insurgencies,” in *The Price of Peace: Just War in the Twenty-First Century*, ed. Charles Reed and David Ryall (Cambridge: Cambridge University Press, 2008); and Michael L. Gross, *Moral Dilemmas of Modern War: Torture, Assassination, and Blackmail in an Age of Asymmetric Conflict* (New York: Cambridge University Press, 2010). For a discussion of the obsession with “new wars” and “post-Clausewitzian” wars, see Mary Kaldor, “In Defense of New Wars,” *Stability: International Journal of Security and Development* 2, no. 1 (2013): 1–16.

4. Ian Clarke, *Waging War: A New Philosophical Introduction* (New York: Oxford University Press, 2015), 131.

5. For a more in-depth rationale for the necessity of rethinking of the *jus ad bellum* framework and making the case for *jus ad vim*, see Brunstetter, chapter 11 of this volume, and also John R. Emery and Daniel Brunstetter, “Restricting the Preventive Use of Force: Drones, the Struggle Against Non-State Actors and *Jus ad Vim*,” in *Preventive Force: Drones, Targeted Killing, and the Transformation of Contemporary Warfare*, ed. Kerstin Fisk and Jennifer Ramos (New York: New York University Press, 2016). Here, Brunstetter and I address criticisms of *jus ad vim*, as we sketch a theory of last resort in

relation to the US Central Intelligence Agency's drone strikes in Yemen and Pakistan for the space that lies in between law enforcement and war, which is where many counterterrorism operations lie today.

6. Rebecca Freese, "Evidence-Based Counterterrorism Flying Blind? How to Understand and Achieve What Works," *Perspectives on Terrorism* 8, no. 1 (2014), <http://terrorismanalysts.com/pt/index.php/pot/article/view/324/651>.

7. Ole Wæver, of the University of Copenhagen, originally presented these three concepts in unpublished papers at various International Studies Association annual conferences. In one of his visits to the University of California, Irvine, he briefly discussed these three elements with me as a possible avenue to provide a framework for my research. The following discussion of the model is solely my own and may depart significantly from Wæver's conception and theorization surrounding these three elements.

8. See note 1.

9. E.g., see Christian J. Tams, "The Use of Force Against Terrorists," *European Journal of International Law* 20, no. 2 (2009): 359–97.

10. Martin Shaw, "Risk-Transfer Militarism, Small Massacres, and the Historic Legitimacy of War," *International Relations* 16, no. 3 (2002): 343–59.

11. *Ibid.*, 348.

12. *Ibid.*, 349.

13. For a classic account, see Michael Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations* (New York: Basic Books, 1977), 152. For a more up-to-date account, see Michael Gross, *The Moral Dilemmas of Modern War: Torture, Assassination, and Blackmail in an Age of Asymmetric Conflict* (New York: Cambridge University Press, 2010), esp. part II.

14. David Remnick, "Telling the Truth about ISIS and Raqqa," *The New Yorker*, November 22, 2015, www.newyorker.com/news/news-desk/telling-the-truth-about-isis-and-raqqa.

15. Micah Zenko, "The US Air Campaign in Syria Is Suspiciously Impressive at Not Killing Civilians," *Foreign Policy*, November 25, 2015, <http://foreignpolicy.com/2015/11/25/the-u-s-air-campaign-in-syria-is-suspiciously-impressive-at-not-killing-civilians/>.

16. US Department of Defense, "Department of Defense Press Briefing by Col. Warren via DVIDS from Baghdad, Iraq," November 18, 2015, www.defense.gov/News/News-Transcripts/Transcript-View/Article/630393/department-of-defense-press-briefing-by-col-warren-via-dvids-from-baghdad-iraq.

17. David Francis and Dan de Luce, "Hitting the Islamic State's Oil Isn't Enough," *Foreign Policy*, November 17, 2015, <http://foreignpolicy.com/2015/11/17/hitting-the-islamic-states-oil-isnt-enough/>.

18. Matthew Levitt, "The Islamic State's Lone-Wolf Era Is Over," *Foreign Policy*, March 24, 2016, <http://foreignpolicy.com/2016/03/24/the-islamic-states-lone-wolf-era-is-over/>.

19. "The Failed Crusade," *Islamic State Magazine Dabiq*, issue 4, <https://azelin.files.wordpress.com/2015/02/the-islamic-state-e2809cdc481biq-magazine-422.pdf>.

20. Martin Chulov, "How ISIS Laid Out Its Plans to Export Chaos to Europe," *The Guardian*, March 25, 2016, www.theguardian.com/world/2016/mar/25/isis-plans-export-chaos-europe-paris-brussels.

21. *Ibid.*

22. *Ibid.*

23. Ibid.

24. Isabelle Duyvesteyn, "Great Expectations: The Use of Armed Force to Combat Terrorism," in *Modern War and the Utility of Force: Challenges, Methods, and Strategy*, ed. Jan Angstrom and Isabelle Duyvesteyn (New York: Routledge, 2010), 73.

25. Ibid., 77.

26. Of course, I recognize that the counter to this is that regardless of US actions, ISIS would have eventually turned to emphasizing attacks against the West. However, counterfactual arguments are simply ex post facto conjecture. It is interesting to note however, that al-Qaeda had the opposite modus operandi of ISIS in what we could call a mirror image. Al-Qaeda was a terrorist organization with no territorial ambitions other than having a safe haven for planning attacks against the West. Today, however, in the mayhem of Northern Syria, al-Qaeda is set to establish an emirate as its first sovereign state. Charles Lister, "Al-Qaeda Is About to Establish an Emirate in Northern Syria," *Foreign Policy*, May 4, 2016, <http://foreignpolicy.com/2016/05/04/al-qaeda-is-about-to-establish-an-emirate-in-northern-syria/>.

27. Paul Kowert, "Agent versus Structure in the Construction of National Identity," in *International Relations in a Constructed World*, ed. Vendulka Kublaková, Nicholas Onuf, and Paul Kowert (New York: Routledge, 1998), 107.

28. Ibid.

29. In Islamic theology, the purpose of *da'wa* is to invite both Muslims and non-Muslims to understand and worship Allah, as expressed in the Qur'an.

30. Seth G. Jones, *Hunting in the Shadows: The Pursuit of Al Qaeda since 9/11* (New York: W. W. Norton, 2013), 41.

31. Ibid., 72.

32. "ISIS Lost 40 Percent of Territory in Iraq, 20 Percent in Syria: Coalition Spokesman," NBC News, January 5, 2016, www.nbcnews.com/news/world/isis-lost-40-percent-territory-iraq-20-percent-syria-coalition-n490426.

33. "What It's Really Like to Fight for the Islamic State," Vice News, April 27, 2016; full video at www.youtube.com/watch?v=aM3EITvF52I.

34. Lizzie Dearden, "Former ISIS Militant Reveals Reality of 'Staged' Propaganda Videos and Brutal Life Under Islamic State," *Independent*, April 30, 2016, www.independent.co.uk/news/world/middle-east/former-isis-militant-harry-sarfo-uk-reveals-reality-of-staged-propaganda-videos-and-brutal-life-a6982831.html.

35. Ibid.

36. Duyvesteyn, "Great Expectations," 78.

37. Ibid., 68.

38. David Luban, "The War on Terrorism and the End of Human Rights," *Philosophy and Public Policy Quarterly* 22, no. 3 (2002): 13–14.

39. Mark S. Hamm, *Terrorism as Crime: From Oklahoma City to Al Qaeda and Beyond* (New York: New York University Press, 2007), 16; Mary Ellen O'Connell also believes that law enforcement methods are the proper means to employ in suppressing terrorism. Mary Ellen O'Connell, "Unlawful Killing with Combat Drones: A Case Study of Pakistan, 2004–2009," Notre Dame Law School Legal Studies Research Paper 09–43, July 2010, www.law.upenn.edu/institutes/cerl/conferences/targetedkilling/papers/OConnellDrones.pdf.

40. Duyvesteyn, "Great Expectations," 77.

41. For further elaborations, see John R. Emery and Daniel Brunstetter, “Drones as Aerial Occupation,” *Peace Review* 27, no. 4 (2015): 424–43.

42. Ibid.

43. Duyvesteyn, “Great Expectations,” 68.

44. Kim Willsher, “France to Set Up a Dozen Deradicalisation Centres,” *The Guardian*, May 9, 2016, www.theguardian.com/world/2016/may/09/france-to-set-up-a-dozen-deradicalisation-centres.

45. Rosa Brooks, “The Threat Is Already Inside,” *Foreign Policy*, November 20, 2015, <http://foreignpolicy.com/2015/11/20/the-threat-is-already-inside-uncomfortable-truths-terrorism-isis/>.

46. The notion that there is a real threat always on the horizon, albeit not immediate and statesmen lack the ability to pinpoint the precise moment when such a threat will be actualized, but cannot simply ignore it. This was originally utilized by John R. Emery and Daniel Brunstetter; see note 5.

47. Luban, “War on Terrorism.”

48. Brooks, “Threat Is Already Inside.”

49. “Operation Inherent Resolve,” US Department of Defense, October 15, 2016, www.defense.gov/News/Special-Reports/0814_Inherent-Resolve.

50. Micah Zenko, “US Airstrikes in Iraq and Syria,” Council on Foreign Relations, November 10, 2016, <http://blogs.cfr.org/zenko/2016/11/10/us-airstrikes-in-iraq-and-syria-versus-drone-strikes-in-pakistan-yemen-and-somalia/>; Operation Inherent, “CJTF-OIR Monthly Casualty Report,” January 2, 2017, www.inherentresolve.mil/News/Article/1040262/cjtf-oir-monthly-casualty-report/.