FREEDOM:
Reassessments
and Rephrasings

Jose V. Ciprut, Editor

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In the search for the elusive balance between liberty and security, and short of platitudes, commentators often resort to the stand-by dictum from Benjamin Franklin that “they that can give up essential liberty to obtain a little temporary safety deserve neither liberty nor safety.” With this thought, there can be no disagreement. One should not trade liberty (let alone “essential liberty”) for safety (let alone “a little temporary safety”). That is so, because security should not be—and in U.S. constitutional democracy is not—an end in itself, but rather merely a means to the greater end of liberty.

Oft-quoted and incontrovertible, Franklin’s truism is not very illuminating. For the essential question is what does one mean by liberty. Here, I think Edmund Burke puts it best: “The only liberty I mean is a liberty connected with order; that not only exists along with order and virtue, but which cannot exist at all without them” (1996, 64). Order and liberty, under this conception, are symbiotic; each is necessary to the stability and legitimacy that is essential for a government under law.

To illustrate this symbiotic relationship, consider liberty without order. Absent order, liberty is simply unbridled license: men can do whatever they choose. It is easy enough to recognize that such a world of liberty without order is unstable, but I would argue that it is also illegitimate. The essence of liberty is the freedom from subjugation to the will of another. In a world of unbridled license, the strong do what they will, and the weak suffer what they must. One man’s expression of his desires will deprive another of his freedom. Liberty without order is illegitimate because one man may infringe, by force as necessary, another’s freedom. True liberty only exists in an ordered society with rules and laws that govern and limit the behavior of men.

Just as liberty cannot exist without order, order without liberty is not only illegitimate but also unstable. The first of these propositions
is widely accepted, so I will not dwell on it here. But it is important to recognize that where there is only order but not liberty, force must be exerted by men over men in an attempt to compel obedience and to create a mirage of stability. Most people are familiar with Rousseau’s dictum: “Man is born free, and everywhere he is in chains.” But often neglected is the sentence that immediately follows in his *On Social Contract*: “Anyone who believes himself the master of others is no less a slave than they...” (1988, 85).

Order without liberty is unstable precisely because it is illegitimate. In an apparent order maintained by brute strength, the ruler has no greater claim to the use of force than his subject, and the master and slave are in a constant state of war—one trying to maintain the mirage of stability created by his use of force, the other seeking to use force to recover his lost freedom. Order and liberty therefore are not competing concepts that must be balanced against each other to maintain some sort of democratic equilibrium. Rather, they are complementary values symbiotically contributing to the stability and legitimacy of a constitutional democracy. Order and liberty go together like love and marriage and horse and carriage—and, as the song says, “you can’t have one without the other.”

In his 1998 book, *The Structure of Liberty*, Randy Barnett distinguishes liberty structured by order from unbridled license by comparing it to a tall building, the Sears Tower. License permits thousands of people to congregate in the same space, but only with the order imposed by the structure of the building—its hallways and partitions, stairwells and elevators, signs and lights—would those thousands be endowed with liberty, each to pursue his own end without trampling on others or being trampled on. Like a building, every society has a structure that, by constraining the actions of its members, permits them at the same time to act toward accomplishing their ends. To illustrate the essential necessity of that structure, Barnett posits this hypothetical: “Imagine being able to push a button and make the structure of the building instantly vanish. Thousands of persons would plunge to their deaths” (1998, 2).

Osama bin Laden pushed that button on September 11, 2001, and thousands of persons plunged to their deaths. Just as Randy Barnett’s building was only a metaphor for the structure of ordered liberty, al
Qaeda’s aim was not simply to destroy the World Trade Center; its
target was the very foundation of ordered liberty.

Appreciating the exceptional nature of the threat, government in the
United States has embarked on a thorough campaign to contain and to
defeat the international terrorist conspiracy. At home, that strategy is
one based on the paradigm of prevention. Abroad, the strategy mani-

fests itself as the doctrine of preemption.

The twin manifestations in domestic and foreign policy of the pre-
ventive strategy have attracted much comment—some nuanced; most,
rather critical; and a few even apocalyptic. Despite their variety and
predominantly critical approach, these commentaries generally adopt
the administration’s premise that what happened on the day of Sep-
tember 11, 2001, was so unprecedented and unimaginable that it rocked
our world—and that world would change forever.

In some ways this premise is correct. We were awakened from our
democratic innocence, from what a law professor, from a perspective
much different from mine, called our “puerile arrogance” (Young 2003,
28). We realized that there are people out there who would not only
reject our institutions, ideals, and values, but also find them so offen-
sive that they would give up their lives to take the lives of innocents
and to upend all that we hold dear.

Others reject the notion that 9/11 was special; they perceive political
conspiracy lurking in the shadow of 9/11 exceptionalism. Accusing the
Bush administration of engaging in a “plot against history,” historian
Marilyn Young concludes that “its ruthless cunning is demonstrated
everywhere” (2003, 28). Hyperventilating rhetoric aside—and it is
rhetoric, because I do not think that a respected scholar could actually
believe this ludicrous charge—I do think that 9/11 exceptionalism can
be taken too far: “9/11” was an event, not a justification in and of itself.
It is, more precisely, a challenge for scholars and policy makers to dis-
cover its meaning, and to draw from it some lessons for the twenty-first
century.

As Marilyn Young poses that intellectual project, “This use of the
idea of change to justify new policies requires that we examine critically
whether this justification rests on a firm foundation, whether the idea
of transformation holds up under closer scrutiny, and whether any
changes are of the sort that would justify these new government poli-
cies” (2003, 8). It is to this task that I now turn.

The attacks of September 11, 2001, and the composition of its perpe-
trators, should make one lesson crystal-clear: Nation-states no longer
possess a monopoly on warfare or warlike violence (Ciprut, 2000). Nineteen individuals, with several hundred thousand dollars, inflicted more damage, took more lives in one day, than even the most mighty of armies would—and, I should add, against the most powerful nation on earth. That there are people who would wish such damage on the United States and on its people is neither new nor surprising. What is surprising, however, is that they have both the will and the means to do so—that they were able to do that which no enemy nation has ever been willing or able to do in the history of the United States.

There were signposts leading to the lesson of 9/11. For many years, individual terrorists and terrorist organizations have sought, and have even articulated their desire, to obtain statelike force. Did not Timothy McVeigh illustrate the ease of mass violence even in his very own country? In that sense, the breach on September 11 of the monopoly on force of nation-states is not a watershed. Rather, it merely marked a turn, even if in a most dramatic and catastrophic manner. Just as—dominated by wars among nation-states—the twentieth century gave way to the twenty-first, so did the day of September 11 threaten the replacement of the world order with a long period of disorder.

In this new era, the Age of Terror, the threat to national and global security comes not only from nation-states individually. In a far more striking way, the threat is now posed to nation-states collectively, by terrorists who believe fervently in their cause, owe no allegiance to any particular place, social space, or polity, and place no value on civilized human life, including their wretched own.

This phenomenon of ideology unmoored from geography, coupled with the means to inflict mass destruction, poses a pervasive and asymmetric threat to the international order. It is pervasive because the international terrorist movement is not really a movement at all, only a loose network of complicitous objectives and ideals. The threat from the shade is asymmetric because the new warriors would exploit the vulnerabilities of liberal democracies, all the more hatefully to inflict terror on their easily accessible masses.

They have engendered fear by undermining the stability of consequence. Acting without the tethers of a geographic base or the restraint of a national polity, the enemy is faceless and, in this way, impregnable.

This central lesson of 9/11, that nation-states no longer have a monopoly on the motives and means of war, has ominous implications in a whole host of areas of law, policy, and international relations.
My comments here focus on the fundamentals, examining how terrorism threatens not only American freedom or Western democracies but also the entire world order. That order is predicated on the nation-state as the organizing unit of sovereignty—a predication that is being challenged by organizations and individuals who operate statelessly, employing terrorism as a means to advance their personal designs and preferences or their ramified, complicit ideological ends.

I first examine the development of the sovereign nation-state as the basic unit of political organization and scrutinize how transnational terrorism threatens the international order predicated on such sovereignty. I follow this outside-in analysis with an inside-out look at how patriotism—or, put more bluntly, nationalism—contributes to the maintenance of sovereignty and international order. I will conclude with some thoughts on where all of this may lead us and, perhaps more important, where a recommitment to national sovereignty and dedication to national ideals should not lead us.

The Nation-State and the Westphalian Order

We start at the beginning, or to be precise, before the beginning of the political system as we know it. The year is 1612. Rudolf II, Emperor of the Holy Roman Empire, dies. Five contentious and tumultuous months later, on June 13, his brother Matthias is elected to the imperial throne.

But what the new Emperor Matthias inherits is hardly an empire as we would imagine it. In this presovereignty age, political power was split among cities, duchies, kingdoms, leagues, unions, and... empires. That power was further split between religious and secular authorities, with no clear lines demarcating where God leaves off and Caesar takes over. Warfare was a way of life, as rulers competed for territory, vied for power, and sought revenge for personal insults. Amidst this hodgepodge of overlapping allegiances, vague boundaries, and parchment compromises, the Protestant Reformation swept through Europe, challenging the religious authority of the Catholic Church and dislodging its political authority over temporal matters. These were the times that inspired Hobbes to posit the state of nature, in which he aptly described life as "solitary, poor, nasty, brutish, and short" (1994, 76).

So it was that six years later, in 1618, "a war of succession for a duchy near Schleswig-Holstein" (Ward et al. 1907, v) grew like a brush fire on
a hot summer day, spreading everywhere and consuming all. As *The Cambridge Modern History* puts it:

The quarrels of the Alpine leagues and those about the Mantuan succession, the rivalries of the Scandanavian north and of the Polish north-east, the struggle, only temporarily suspended, of the United Provinces against Spain, the perennial strife between Spain and France for predominance in Italy and elsewhere—all contributed to the sweep of the current. Even the Ottoman Empire was concerned in its progress; for the ‘Turco-Calvinistic’ combination announced by the pamphleteers was by no means a mere hallucination. “All the wars that are on foot in Europe,” wrote Gustavus Adolphus to Axel Oxenstierna in 1628, “have been fused together, and have become a single war” (1907, v).

This single war, the Thirty Years’ War, wiped out the old Europe and ushered in a new one. On June 1, 1645, delegates convened in Munster for a peace conference with France and in Osnabrück for a peace conference with Sweden. The two towns, thirty miles apart, in Westphalia, were chosen to permit communications between the two Congresses, thus perchance to facilitate a global peace. On October 24, 1648, signatures were apposed on The Treaty of Peace between the Holy Roman Emperor, the king of France, and their respective allies, and also on The Treaty of Peace between the Holy Roman Emperor, the king of Sweden, and their respective allies.

One would wade through the pages of these treaties and search in vain for any mention of “sovereignty.” Like most peace treaties, this one, too, was concerned with the terms of cessation of hostilities and the redivision of territories among the various warring parties. Unlike the ambiguous and often meaningless treaties that preceded it, however, the Peace of Westphalia delineated the limits of authority and the bounds of territory between the emperor and the kings and among the kings and lords. As John Jackson puts it, “the compact represented the passing of some power from the emperor with his claim of holy predominance, to many kings and lords who then treasured their own local predominance. As time passed, this developed into notions of the absolute right of the sovereign, and what we call ‘Westphalian sovereignty’” (Jackson 2003, 786).

From these beginnings one can trace an unbroken intellectual and diplomatic lineage to our current system of international law and relations—from the Vienna peace treaty settling the Napoleonic Wars to the Paris Peace Accords of 1919, through the League of Nations, on to the Charter of the United Nations (Gross 1948, 21–24). In the words of
a commentator in 1948, about the time when the United Nations was born, the Peace of Westphalia was the first to establish “something resembling world unity on the basis of states exercising untrammeled sovereignty over certain territories and subordinated to no earthly authority” (Gross 1948, 20).

This system of unity grounded in sovereignty seeks not to impose global authority from one central ruler directly upon his subjects, as the Holy Roman Emperor sought haplessly to do in the face of competing claims to authority. Rather, it disaggregates political authority into discrete units—each one a hypothetical and juridical person with the autonomy to determine its own actions and to check the actions of its others. Through bilateral agreements and multilateral organizations, and by force as necessary, these discrete units interact with each other to sustain the uneasy if comparatively stable social compact that we have come to call ‘world order’.

To qualify for international personhood, would-be nation-states must prove their autonomy. In the precise language of the Montevideo Convention on Rights and Duties of States (1933): “The state as a person of international law should possess the following qualifications: (a) a permanent population; (b) a defined territory; (c) government; and (d) capacity to enter into relations with other states.” Evidently, each of these requirements serves to ensure proper disaggregation, and to support the critical assumptions of autonomous personhood—that each unit internally can govern its territory and subjects, and externally can interact with fellow units.

By so transforming the universe of billions of actual persons into a club of far fewer juridical persons—191 states, or 193 if one counts the Holy See and Taiwan—the international community can seek to bring order to the chaotic task of governance. Citizens are answerable to nations, and nations in turn are answerable to each other. The value of the nation-state as the basic unit of political organization is perhaps best, and most relevantly, illustrated by the use of force. Each sovereign has an internal monopoly on the use of force within its jurisdiction. Each nation can project suasive force externally in order to wage war. Because preventing and limiting war is the whole point of the exercise, what the law of nations—as it has traditionally developed—governs is, first and principally, use of force.

Richard Haas (2003) summarizes well the concept of order grounded in sovereignty, highlighting also well the many challenges to that vision:
Historically, sovereignty has been associated with four main characteristics: First, a sovereign state is one that enjoys supreme political authority and monopoly over the legitimate use of force within its territory. Second, it is capable of regulating movements across its borders. Third, it can make its foreign policy choices freely. Finally, it is recognized by other governments as an independent entity entitled to freedom from external intervention. These components of sovereignty were never absolute, but together they offered a predictable foundation for world order. What is significant today is that each of these components—internal authority, border control, policy autonomy, and nonintervention—is being challenged in unprecedented ways. (Haas 2003, 2)

The modern challenge to sovereignty comes from many sources: the ascendancy of international institutions, the development of regional unions, the delegation of governmental authority to non-state actors, the impotence of weak or failing states, and other factors auguring the increasing irrelevance of the sovereign nation-state. Some scholars saw national sovereignty as an obstacle to regional and global governance, or at least as unnecessary, in light of such governance structures (Chayes and Chayes 1995; Friedman 1999; Liftin 1998; among others). Some even have identified in the increasingly interdependent world the seeds of cosmopolitan citizenship superior to claims of national allegiance (Nussbaum 2002, 3–17). And for some others, sovereignty is an empty vessel, “of more value for purposes of oratory and persuasion than of science and law” (Wright 1968, 278). The title of one book seems to summarize the prevailing assault: *Sovereignty: Organized Hypocrisy* (Krasner 1999).

These criticisms share the common trait of posing the challenge to sovereignty-based order, from within—by arguing, as they do, that nation-states by their actions or inaction have so manipulated or abused the concept of sovereignty that it has very little if any enduring analytical value. One strand of criticism even explores sovereignty as a social construct, arguing that “[n]umerous practices participate in the social construction of a territorial state as sovereign” (Biersteker and Weber 1996). Once it is freed from its inherent characteristics and requirements, sovereignty can be next reconstructed to fit the policy or political needs of the day.

**The Terrorist Challenge**

Whatever the validity of these criticisms, they fundamentally differ from the external assault on sovereignty-based order—mounted by stateless terrorism. Armed with the means and motives of war, and yet
operating outside the community of nations, the terrorist poses an external threat to the ordering structure of that community. His access to means of mass violence breaks the monopoly on force held by sovereign nation-states. His illicit use of those means elides the nation-states' internal exercise of that monopoly of power, eludes criminal law, and escapes their external projections—the legality of war. This modern terrorist threat goes beyond ideology unmoored from geography. Even more accurately, it is in fact: force unchecked by sovereignty.

The use of nonstate force, however, is not a new phenomenon. This aberration of the world ordered by nation-states draws from the advent of piracy, mercenary forces, and, more recently, transnational criminal organizations, each of which—like the terrorist and his act—is an affront to principles of sovereignty, thus to legal recourse by a state to its legitimate monopoly on the use of force.

Today, terrorism, piracy, and transnational organized crime are all considered contrary to a world order grounded in sovereignty. Specifically, terrorism has been called “an attack on legitimate transnational order” (Perdue 1989, 8). In Terrorism and the Liberal State, Paul Wilkinson (1977, 80) concludes that “terrorism constitutes a direct repudiation of liberal and humane values and principles” and that “terrorist ideology is inevitably and constantly deployed in a struggle to defame and discredit liberal democracy.” As important is what Martin Van Creveld (1991, 294) sees to be part of the danger that terrorism and other affronts to sovereignty comprise: “Once the legal monopoly of armed force, long claimed by the state, is wrested out of its hands, existing distinctions between war and crime will break down.” In this way, stateless force leads to worldwide anarchy.

Little wonder, then, that the Training Manual of the most reviled enemy today in the War on Terror, al Qaeda, states its primary goal to be: “The overthrow of the godless regimes and their replacement with an Islamic regime” (p. 12). This chilling decree was translated from a manual uncovered in an al Qaeda operative's home. In this manual, al Qaeda most explicitly rejects diplomacy, discourse, or debate as means of effectuating change: “The confrontation that we are calling for with the apostate regimes does not know Socratic debates..., Platonic ideals..., or Aristotelian diplomacy.... But it knows the dialogue of bullets, the ideals of assassination, bombing, and destruction, and the diplomacy of the cannon and machine-gun” (p. 12).

Loosely translated, al Qaeda means “base” or “foundation,” but “[i]t can also mean a precept, rule, principle, maxim, formula, method,
model or pattern” (Burke 2003, 7). As an organization, al Qaeda began to take form during the Soviet invasion of Afghanistan and in the subsequent resistance movement by local Afghans and Muslims throughout the Islamic world. Jason Burke notes that “al Qaeda” is a common Arabic word and was probably employed to describe the base from which Muslim fighters and local Afghani militia operated (2003, 7–8). After the withdrawal of the Soviets in 1989, however, al Qaeda would emerge as a radical Islamic terrorist organization. The rebirth was devised in an effort to unify the geographically and ethnically disparate groups (Burke 2003, 8; see also Gunaratna 2002, 87) that had taken part in the Afghan war, with the specific purpose of forming “an ‘international army’ which would defend Muslims from oppression” (Burke 2003, 8).

While terrorists have long directed their actions outside the known borders of the nations or states sheltering them, al Qaeda has distinguished itself by its effort to “globalize” terror operations. According to Yoram Schweitzer and Shaul Shay (2003, 49), al Qaeda “disputes Western cultural concepts on every level.” And as Vincent Cannistraro, former Chief of Counterterrorism Operations, U.S. Central Intelligence Agency, put it in his statement at a Hearing before the House Committee on International Relations of the 107th U.S. Congress in 2001, regarding al Qaeda and the Global Reach of Terrorism: “This terrorist organization is not merely bent on achieving geographically limited political success; it seeks to isolate the Islamic world from global society and to reorder it under the beliefs of radical Islam as well.” In this way, al Qaeda is not only a vital threat to Western nations, which are seen as obstacles to unifying the Islamic world, it is also an existential threat to all Islamic nations deemed impure and corrupted by Western ideals and precepts.

In his testimony before the Senate Subcommittee on International Operations and Terrorism, the U.S. Federal Bureau of Investigation’s Acting Assistant Director of Counterterrorism, J. T. Caruso (2001), listed four reasons why al Qaeda is opposed to the United States:

First, the United States was regarded as an “infidel” because it was not governed in a manner consistent with the group’s extremist interpretation of Islam. Second, the United States was viewed as providing essential support for other “infidel” governments and institutions, particularly the governments of Saudi Arabia and Egypt, the nation of Israel and the United Nations organization,

which were regarded as enemies of the group. Third, Al Qaeda opposed the involvement of the United States armed forces in the Gulf War in 1991 and in Operation Restore Hope in Somalia in 1992 and 1993, which were viewed by Al Qaeda as pretextual preparations for an American occupation of Islamic countries. In particular, Al Qaeda opposed the continued presence of American military forces in Saudi Arabia (and elsewhere on the Saudi Arabian peninsula) following the Gulf War. Fourth, Al Qaeda opposed the United States Government because of the arrest, conviction and imprisonment of persons belonging to Al Qaeda or its affiliated terrorist groups or with whom it worked, including Sheik Omar Abdel Rahman, who was convicted in the first World Trade Center bombing. (Caruso 2001, 4–5)

Besides its leadership, al Qaeda’s unifying rule appears to be its members’ unwavering adherence to a form of radical Islam. The Al Qaeda Training Manual states that all members must be Muslim. But this characterization-qua-requirement must be qualified by the other requisites for membership: A member must be committed to the organization’s ideology—the “overthrow of the godless regimes,” including the overthrow of most Arab nations, “and their replacement with [a single, utopian] Islamic regime.” Not least, members also must “be willing to . . . undergo martyrdom for the purpose of achieving” al Qaeda’s goals.

As a religion-centered ideology would limit its violent tactics, al Qaeda sheds the morality of religion: individuals and nations that stand in its way are dehumanized, subordinated—the cause is promoted above all else. In this way, no tactic falls outside of the realm of the acceptable. As explains the Training Manual: “Islam is superior to all human conditions and earthly religions, it permits [means and ways] for itself [that are not available] for others” (p. 77).

In no uncertain terms, al Qaeda’s extremist and fundamentalist ideology is a direct affront to liberal-democratic ideals. Al Qaeda seeks to subjugate women; democracy works for their liberation. Al Qaeda seeks to deny choice; democracy celebrates the marketplace of ideas. Al Qaeda seeks to suppress speech; liberal democracy welcomes open discussion.

Were al Qaeda a nation, a government would deal with these differences in the same way that it does vis-à-vis nations with which it may have fundamental disagreements. Subject to certain limits, it would respect their sovereignty—even though it would use its own sovereignty to bring upon them every political, diplomatic, and economic pressure legitimately practicable, the more effectively to cajole and/or to coerce them into adopting a more humane and civilized exercise of
their sovereign power. But even if al Qaeda were a "nation," many of its actions would fall outside the limits of sovereignty. Václav Havel (2002) reminds us that "human rights, human freedom and human dignity represent higher values than State sovereignty." As Kofi Annan (1999) has said, "If states bent on criminal behaviour know that frontiers are not an absolute defence—that the [United Nations Security C]ouncil will take action to halt the gravest crimes against humanity—then they will not embark on such a course assuming they can get away with it."

Of course, al Qaeda is not a nation, and its offence to the United States and to other nations is not limited to its extremist ideology. By adopting the way of terror, it has attacked not only U.S. citizens on U.S. territory but also and especially the very foundation of world order grounded on state sovereignty.

The terrorist does not seek to destroy a social construct—the idea of a world ordered by sovereign states. The terrorist seeks to destroy that reality. In this sense, the terrorist is fundamentally different from the criminal offender normally encountered in the criminal justice system. By attacking the foundation of order in civilized society, the terrorist seeks to demolish the institutional structures on which the lives and well-being of citizens depend. By fomenting terror among the masses, the terrorist seeks to incapacitate them from exercising the liberty to pursue their individual ends. This is not mere criminality. It is an outright warlike attack on the polity.

In waging this war, the terrorist employs strategies that diverge fundamentally from those used by nations. The terrorist does not abide by recognized rules of war; those rules were established among nations. Rather, the terrorist exploits those rules to his advantage. Civilian life is no longer sacred; military installations are not necessarily the primary targets. By way of comparison, an enemy nation targets its foe's instruments of defense; rather, the terrorist targets the core of society. And unlike a nation, exposed to the vulnerabilities of its geographic territory and of its population, and therefore appreciative of the costs of war, the terrorist appreciates only the moral hazard he inflicts—his undertakings do not absorb the costs and therefore cannot internalize the risks (see Kleindorfer, chap 6 in this book) of his bellicose actions. The world becomes his battleground—no country is immune from his attacks—and all innocent civilians are henceforth exposed to the threat of wanton violence and of incapacitation by the fear of terror.
This, then, is the enemy in the Age of Terror: a criminal whose objective is not crime but fear; a mass murderer who kills only as a means to a larger end; a warrior who abuses the rules of war; a war criminal who recognizes no limits or boundaries, and who aspires to reach all parts of the globe. Neither endowed with the rights nor in the least encumbered by the responsibilities of being a legal person in the international community, terrorism attacks that community as a virus does—moving from one person to the next, infecting each and every one on its path indiscriminately, with poisonous lethality.

National Pride, World Order

Faced with such an external threat, naturally a nation turns inward to uphold its spirit of national unity and resolve. Thomas Paine (1925, 263) captured well that spirit when he wrote, on a drumhead, words that were read to every soldier in the Continental Army: “These are times that try men’s souls. The summer soldier and the sunshine patriot will, in this crisis, shrink from the service of their country; but he that stands it now, deserves the love and thanks of man and woman. Tyranny, like hell, is not easily conquered, yet we have this consolation with us, that the harder the sacrifice, the more glorious the triumph.”

These are, indeed, times that try men’s souls—and their hearts, and their minds, too. For under attack are not only yesterday’s targets—the World Trade Tower, the Pentagon, the White House, or the Capitol—but also the institutions and ideals that they represent (cf. Hackney, chap. 11 in this book) still now, and for the future. The public expressions of resolve that have followed those lowly attacks evoke the assent of U.S. citizens, precisely because Americans share a commitment to those institutions and ideals—and to the land of their birth that continues to nurture them.

The same spirit of pride fortifies each metaphorical-citizen, member in the international community, through strengthening the body politic of nations and through the building of the civilized world’s defenses against harmful illegal infections. Nations are not built overnight. The very history, institutions, and memories of peoples help to cultivate and reinforce their commitment to each other. As Michael Walzer (1992, 54) describes the process in his classic Just and Unjust Wars, “Over a long period of time, shared experiences and cooperative activity of many different kinds shape a common life. ‘Contract’ is a metaphor for a process of association and mutuality, the
ongoing character of which the state claims to protect against external encroachment.”

In his celebrated essay *Qu’est-ce qu’une Nation?* Ernest Renan (1994, 17) answers the question posed in his title as follows: “To have common glories in the past and to have a common will in the present; to have accomplished great things together, to wish to do so again—is the essential condition for being a nation. . . . A nation is [therefore] a grand solidarity, constituted by the sentiment of sacrifices which one has made and those that one is disposed to make again.”

A national identity can be born from a shared commitment to its core principles as the American example amply demonstrates. George W. Bush, as incoming U.S. president, put it best in his Inaugural Address (2001): “America has never been united by blood or birth or soil. We are bound by ideals that move us beyond our backgrounds, lift us above our interests and teach us what it means to be citizens.”

But patriotism means more than just intellectual and emotional attachment to a set of principles. It is a rational commitment to the polity and to a shared sense of belonging. It is the very spirit that Stephen Decatur voiced in 1816 in his famous toast: “Our country! In her intercourse with foreign nations may she always be in the right; but our country, right or wrong” (Decatur 1816, 295). The reflexive and unyielding patriotism that this toast manifests has been criticized and even (maybe justly) scorned for the unconditional pledge of allegiance that it embodies—one that leaves practically no room for exit or voice and demands absolute loyalty. But then loyalty there must be, and even in dissent. “For patriotism,” in Professor Wilfred McClay’s own eloquent words (2001), “like any love, withers and dies if it is not accorded some degree of instinctive assent.”

If patriotism is a kind of love, then it is unfortunately a love that often dares not speak its name—assuredly not in cosmopolitan academic circles. In a highly influential essay, written in 1994, Martha Nussbaum (2002) argued that “this emphasis on patriotic pride is both morally dangerous and, ultimately, subversive of some of the worthy goals patriotism sets out to serve—for example the goal of national unity in devotion to worthy moral ideals of justice and equality.” Labeling

2. George Orwell (1968, 56, 75) wrote that “almost any English intellectual would feel more ashamed of standing to attention during ‘God Save the King’ than of stealing from a poor box.” Wilfred McClay (2003) makes the same observation in reference to contemporary American academia, where patriotism “must face a disdain even more deeply rooted than the incest taboo.”
nationality as "morally irrelevant," she advocates an identity of "citizen of the world"—"the person whose allegiance is to the worldwide community of human beings" (Nussbaum 2002, 4, 5).

These are by no means trivial objections, for we know all too well the atrocities committed in the name of nationalism. But they underestimate the value of the nation-state as the basic political unit of international order. International presupposes national. As Michael Walzer (2002, 125) answers: "I am not even aware that there is a world such that one could be a citizen of it. No one has ever offered me citizenship, or described the naturalization process, or enlisted me in the world's institutional structures, or given me an account of its decision procedures (I hope they are democratic), or provided me with a list of the benefits and obligations of citizenship, or shown me the world's calendar and the common celebrations and commemorations of its citizens."

Nussbaum acknowledges, of course, that there is no world state; she does not necessarily advocate for one. Instead, she argues that nationality does not stand in the way of cosmopolitanism—nationalism does. But much as we like to think globally, we can only love locally—as in Burke's little platoons (McConnell 2002, 82): "To be attached to the subdivision, to love the little platoon we belong to in society, is the first principle (the germ as it were) of public affections. It is the first link in the series by which we proceed toward a love to our country and to mankind." Or, as Michael McConnell puts it: "We do not love those distant from us more by loving those close to us less" (2002).

That we love those close to us does not necessarily mean that we cannot love those distant from us. And it certainly does not suggest that we may disrespect them. Indeed, loving one's country allows one to love others even more. Liberal democracy requires a healthy dose of mutual commitment. Do not counter-majoritarian norms, protection of minority rights, and redistributive justice go against parochial self-interest and demand much enlightenment—the immense empathy (see Williams and Barber, chap. 4 in this book), and commitment, that national identity and unity do, indeed, facilitate?

Loving "our" country—for us Americans, loving the United States—allows and, indeed, requires of each of us, as citizens, to show love for others, who are not. As U.S. President George W. Bush (2002) has expounded: "Unlike any other country, America came into the world with a message for mankind—that all are created equal and all are meant to be free. There is no American race; there's only an American
creed: We believe in the dignity and rights of every person." And Walter Berns (2001) sounds the same theme in his book, Making Patriots: "What makes us 'one people' is not where we were born but, rather, our attachments to those principles of government, namely, that all men are created equal insofar as they are equally endowed by nature's God with unalienable rights to life, liberty, and the pursuit of happiness, and that the purpose of government is 'to secure these rights'" (cf. Cameron, chap. 13 in this book).

Loyalty to nation thus fosters commitment to universal precepts. It is not at all evident that rejection of national identity would foster global brotherhood—indeed, quite the opposite is plausible. Nussbaum (2002, 15) acknowledges that "being a citizen of the world is a lonely business. It is ... a kind of exile—from the comfort of local truths, from the warm, nestling feeling of patriotism, from the absorbing drama of pride in oneself and one's own." Frankly, I am not sure that the destination justifies the journey. I would submit that, rather than aspiring to universal cosmopolitanisms, statelessness may well foster mere rever­sion to selfish individualism. Worse still, and highly relevant to our discussion here, a rudderless person in search of a universally grounded fundamental identity may—these days, even more quickly—find oneself in the dubious comforts of zealotry in a community of terror.

In Closing

In many ways today, the global community is navigating uncharted territory—we are at war with nihilistic terrorists instead of rogue nation-states. During these times, when the very foundation of liberty is under attack, it is critical that each nation-state celebrate the stability of order grounded in sovereignty. Stability is fostered by the nation-state as the basic building block of world order. Each of these blocks forms an element of a communal wall against terrorism: a wall fortified from within by each state's desire to purge internal challenges to sovereignty; a wall fortified from without, the better to stand up to the terrorist challenge to global order. As any structure with a function, a wall is dependent on the strength of its component blocks from which it derives its strength and stability. Weak blocks make weak walls. Likewise, weak states leave us all more susceptible, surely more vulnerable to terrorist attacks. Strong states serve not only to protect us from the terrorist threat, but also to preserve that order essential to the continued stability of liberty.
References


