

Internal Security and Civil Liberties: Moral Dilemmas and Debates*Heidi Hadsell*

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As a result of the terrorist attacks of September 11, while the United States carries out its military campaign in Afghanistan and its diplomatic campaign in Europe and elsewhere, it also is acting to insure its internal security. Some of the measures taken towards internal security are relatively simple, straightforward, and also non-controversial. Such measures include increased airport security, and the transference of the task of airport baggage checks from private firms to the federal government. Other measures reach more deeply into established laws and practices of the U.S. society, and pertain more closely to the U.S. system of justice and to the U.S. understanding of civil liberties as established by the U.S. Constitution and its amendments. These measures, the full implications of which are still not understood, provoke partisan political controversy, legal controversy, and also ethical debate. This essay focuses on some of the ethical questions related to the security measures put in place from September 11 through December. In the pages below, there is first a brief description of the major security measures taken, then a description of the typical reactions to these measures, and finally a focus on some of the emerging ethical questions provoked by these measures.

A journalist writing in the New York Times recently described the security measures taken since September 11 in the following manner:

“In bold and unilateral strokes, the Bush administration has in recent weeks reshaped the American legal system to fight terrorism in ways un-thinkable before September 11, from monitoring the conversations of suspected terrorists and their lawyers to creating special military tribunals to prosecute terrorists without the usual Anglo-Saxon niceties.

Public complaints were slow to come, and official scrutiny was scant at first. But a bipartisan chorus of skeptics and outright critics has now built to a political force that must be reckoned with...”¹

What are the measures to which he refers? And why such consternation? Briefly and in rough chronological order the internal security measures established since September 11 can be documented as follows.

- **The Office of Homeland Security established.**

On September 30, the office of Homeland Security was created. This was the unit that was entrusted with preventing terrorist infiltration in the United States and especially with the duty to ensure that the airlines are safe.

- **President Bush signed the “Patriot Act” into law.**

The anti terrorism bill known as the “Patriot Act”, whose full name is: “The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism act of 2001”: was passed by the House of Representatives 357-66 on October 24, and passed in the Senate by a vote of 96-1 on October 25, and signed into law by President Bush on October 26. Major elements of this act include: first, any non-citizen who endorses terrorist activities or belongs to a group which does can be either

deported or refused entry at the border to the United States. Second, Terrorist activity has been broadened in meaning to include non citizens who use “dangerous devices,” or who raise money for terrorist groups. And third, any non citizen who the U.S Attorney General certifies on “reasonable grounds to believe” as endangering national security can be detained, and held indefinitely, although the Justice Department has to bring criminal or deportation charges against him or her within seven days. Such incarcerations can be secret, and criminal proceedings are bound by gag orders. Fourth, the rules on surveillance have also changed. It is now easier for law enforcement agencies to watch both citizens and non citizens - since they now have been given increased powers of surveillance including new wire tapping powers which among other things now include cell phones. Surveillance rules now also include an expanded use of foreign intelligence information by law enforcement agencies.

In recognition of the special nature of this act which was provoked by the events of September 11, “The Patriot Act” includes a sunset law of December 31,2003.

- **Detentions of suspected terrorists**

Detentions of people suspected of being related in some way to the events of September 11 began immediately on or after the 11, and every day the Department of Justice issued a tally of arrests until November 3 when 1,147 people had been detained. At this time the Department of Justice stopped issuing the daily tally. At no time were the names of the majority of the people arrested made public. According to the Justice Department, a small number of the persons detained have been detained as material witnesses, many have been detained for immigration violations, and then there are those detained on a number of other charges. As of the first week of December, some 500

names of those detained had still not been disclosed, and stories in the press were increasing of hardworking, law-abiding people arrested and detained for weeks without being charged for any crime.

- **The media is asked to restrain itself**

Since September 11 the media has been asked several times by the State Department to, on a voluntary basis, limit the content of some of their news reports. Specifically, the media was asked not to run video tapes of Osama bin Laden, because the State Department feared they could contain secret encrypted messages which would aid the enemy. More recently the media was given a tape of Osama bin Laden by government officials who in this case seemed not to fear encrypted messages. In addition, journalists have complained about being kept away from battle fields in Afghanistan, to such an extent that it has sometimes compromised their ability to report the news.

- **Eavesdropping**

Attorney general John Ashcroft issued orders on November 8 allowing federal prison authorities to eavesdrop on attorney -client conversations involving people suspected of posing a direct threat to national security.

- **Military Tribunals**

On November 13 President Bush signed an order which makes a provision for military tribunals to try any non citizen of the Unites States who is charged with terrorism. Under the provisions of this order, it is finally the President himself who determines who to try in military courts. Not only does this mean that the evidence that led to the charges against the person on trial will not be made public, which is one of the explicitly stated goals of this measure, it also means that the person thus charged has no

right to a public trial, no right to a trial by jury, and no right to confront the evidence. No such similar procedure has been announced for citizens of the United States charged with terrorism.

However, it is worth noting that on December 11 the U.S. Government announced that a French citizen of Moroccan ancestry, suspected as an accomplice to the terrorist acts of September 11, who has been in custody since mid August, will be brought to trial in U.S. civil courts, rather than a military tribunal.

- **Immigration Tightens up.**

As indicated above, hundreds of people have been arrested since September 11 and are being held on immigration violations as well as a number of other charges not directly related to the terrorist attacks. A number of measures to tighten immigration procedures have been taken, including new border agreements with Canada, and the requirement that airlines from certain countries send ahead passenger manifests for planes arriving in the USA. It is now reportedly harder for people from certain countries considered to be friendly to terrorists to obtain a visa to enter the USA.

A new regulation on the detention of immigrants was issued on October 26 by Attorney General John Ashcroft for the Immigration and Naturalization Service. This new regulation allows the INS to disregard any release order issued by an immigration judge in cases where the agency says it believes that non citizen is a danger to the community or a flight risk.

On November 13 Justice Dept. asks law enforcement agencies across the country to identify and question some 5,000 Muslim men, ages 18 -33, who entered the country with legal temporary visas in the last several years. It asks local police forces, and

colleges and universities where many of these men are enrolled to cooperate in the interview process. Universities and colleges have also been asked to identify to law enforcement officials those students who are here in the United States on student visas, who are not attending class or who have dropped out of the institution.

One illustration of this pressure on students occurred on December 15. Ten people from the Middle East in the United States on student visas were arrested in San Diego for violating the terms of their visas. Immigration officials characterized this action as the beginning of a “major crack-down on foreigners who violated the terms of student visas.”²

Expanded rights to infiltrate religious groups and gatherings.

The government’s plans to expand the legal ability of law enforcement agencies to infiltrate and to eavesdrop on gatherings of religious groups across the United States has been reported in a number of respected newspapers. I have not been able to find sufficient information so that I can discern whether this is rumor or fact.

With the exception of the anti-terrorism bill known as the Patriot Act of October 25, the U.S. Congress has largely played the role of bystander in each of these measures, not having been invited to debate or to vote on these issues.

In the three months since September 11, the entire country has been put on alert against imminent attacks three times, each for a number of days. For none of these alerts has the federal authority in charge been able to specify when or where or by what means the terrorists might act, or even who the terrorists might be.

Part Two - Reactions to these internal security measures

While the Patriot Act passed with a large majority in the House and with only one dissenting voice in the Senate, the more recent decisions taken by the government, especially the Presidential order that established the military tribunals for non-citizens suspected of terrorism, which thus effectively denies even U.S. residents who are not citizens the rights associated with civil trials, have met with increasing questions and concerns. The concerns about the violation of some of the civil rights guaranteed by the U.S. Constitution, the unbalancing of the delicately balanced separate powers of the U.S. government, and the centralization of decision making and power in the Presidency are well expressed by this editorial in the New York Times on Friday, November 16, 2001 called "A Travesty of Justice":

President Bush's plan to use secret military tribunals to try terrorists is a dangerous idea, made even worse by the fact that it is so superficially attractive. In his effort to defend America from terrorists, Mr. Bush is eroding the very values and principles he seeks to protect, including the rule of law.

The administration's action is the latest in a troubling series of attempts since Sept. 11 to do an end run around the Constitution. It comes on the heels of an announcement that the Justice Department intends to wiretap conversations between some prisoners and their lawyers. The administration also continues to hold hundreds of detainees without revealing their identities, the charges being brought against them or even the reasons for such secrecy...

But by ruling that terrorists fall outside the norms of civilian and military justice, Mr. Bush has taken it upon himself to establish a prosecutorial channel that answers only to him. The decision is an insult to the exquisite balancing of

executive, legislative and judicial powers that the framers incorporated into the Constitution... In the place of fair trials and due process he has substituted a crude and unaccountable system that any dictator would admire.”

Alberto R. Gonzales, counsel to President Bush - in an article in the New York Times entitled: “ Martial Justice, Full and Fair,”³ responds to this kind of criticism:

“Military commissions do not undermine the constitutional values of civil liberties or separation of powers; they protect them by ensuring that the United States may wage war against external enemies and defeat them. To defend the nation, President Bush has rightly sought to employ every lawful means at his disposal. Military commissions are one such means, and their judicious use will help keep Americans safe and free.”

The response of the President, the Attorney General and others in the Bush administration to critics is demonstrated by this quote. Invariably the administration responds with some form of the argument that that this is a crisis, a war, and one must do everything possible to defeat the enemy, that such measures are necessary, constitutional and in accordance with precedents from the past.

The measures taken to date, as well as the arguments put forth by government authorities to defend them, have met with considerable popular approval - so much so that it is probably politically unwise for elected officials who wish to be re-elected, to voice objections very loudly. Those few in congress who do complain about aspects of these new measures or about being sidelined in their role as law makers, or who raise questions about the constitutionality of these measures by and large do so with little fan fare.

The high levels of popularity enjoyed by Bush administration, including approval ratings for the Attorney General John Ashcroft, make it easy for Bush, Ashcroft and others to dismiss those who question the constitutionality and morality of some of the measures that they have introduced, and to characterize those that do ask questions and voice concerns as small and radical groups of civil libertarians who, on the extreme left and right, are far from the mainstream of the U.S population. Sometimes the administration has gone further than this as when John Ashcroft, the Attorney General recently declared that those who do not support these measures ‘aid and abet’ the enemy. He said: "To those who scare peaceloving people with phantoms of lost liberty, my message is this: your tactics only aid terrorists." ⁴

The open support for and enthusiasm for the Patriot Act on the part of the American public was followed by widespread, but fairly quiet acquiescence regarding measures such as that of the establishment of the military tribunals for non-citizens suspected of terrorism. This apparent unanimity of support began to give way slightly by mid December, a trend which was noted by an increasing number of journalists. This article published in the New York Times on December 12 is representative, which was published under the heading of “Public is Wary but Supportive on Rights Curbs”:

“Americans are willing to grant the government wide latitude in pursuing suspected terrorists but are wary of some of the Bush administration’s recent counter-terrorism proposals and worried about the potential impact on civil liberties..”

The international community has begun to react as well. Spain for example has made no secret of its refusal to cooperate with the United States by sending suspected

terrorists for trial in the United States unless the United States guarantees that those suspects will not be tried by military courts. Similarly, France has announced its intention not to cooperate as long as there is the threat that persons extradited from France to the United States could face the death penalty.

This kind of reaction on the part of some American allies lends weight to those who argue that the military tribunals will have the opposite effect as that intended, because their use will provoke allies into non-cooperation with the United States. The military tribunals also leave the United States open to the charge of yet one more type of American exceptionalism, since the U.S. seems to have no intention of using the international courts in the Hague.

Reactions of Religious Communities

Over the months since September 11 one searches in vain for a substantive public response to the issues of internal security and civil liberties, on the part of the many religious communities in North America. Many religious communities moved quickly in their pastoral responses to the tragedy of September 11, and some religious communities were quick to express their hopes for a measured and reasonable U.S. military response in Afghanistan. A number of religious communities have underlined the need for justice, not revenge in response to the attacks on September 11. But in regards to the issues of internal security and civil liberties, religious communities - whether Christian, Muslim, or Jewish - have not been vocal or visible. Consequently, members of religious communities by and large are left to think through these issues largely without aid from their religious leaders.

The Ethical Debate

The terrorist attacks demonstrated dramatically and tragically both the depth and breadth of terrorist possibilities and the extent of personal vulnerability right inside this country. The attacks greatly frightened the American people who are accustomed to thinking of themselves as invulnerable to such attacks, despite recent evidence to the contrary. Clearly it was critically important that government offices and departments respond quickly with an examination of all the different aspects of internal security and that they take the measures necessary to insure the safety of U.S. citizens

The “Patriot Bill” with its emphasis on the re-examination of surveillance methods and the bringing of them up to date with current technologies, the broadening of the term “terrorist,” (which is a term which remains entirely too vague), the provision for new powers to detain and expel non-citizens who are suspected of terrorist sentiments or activities, aimed at making up for what was experienced as a general lack of preparedness, and at taking the basic steps necessary to insure public safety. The sunset clause of December 31, 2003 that was built into the act, insured that if the steps were insufficient, or conversely too draconian, they would automatically be re-evaluated by Congress or expire. The large bi-partisan majorities which passed the bill were also reassuring. Indeed few objections were raised at the time or later. The consensus seemed to be that given the necessary trade offs between security and civil liberties a good balance had been struck. Some measures were necessary and those taken, while they did limit some elements of the civil liberties of all of us, they did not overly infringe on the rights either of citizens of the United States or non-citizen residents.

While the Patriot Act continues to enjoy considerable support, increasing questions are being raised and comments made about many of the other measures aimed at internal security. Some of the questions relate to how each measure was passed, with objections raised at the small or even non-existent role that Congress has played since the passing of the Patriot Act. Other objections are raised at the way non-citizens are being increasingly targeted and separated from citizens in terms of treatment and rights. Still others object to the secrecy that seems pervasive, from the gag rules in trials, to the government's introduction of measures against threats about which it cannot provide data. The concentration of power in Presidential hands is another fear of some of those who are beginning to raise questions. Each measure is different with correspondingly different issues associated with it.

Military Tribunals

The Presidential decree regarding military tribunals was by definition not an act of congress. There was thus no debate about the measure before it became law. This fact, that it came as a Presidential decree and that it therefore was law before it occasioned any debate is one of the moral objections to the military tribunals. In addition the law stipulates that it is the President himself who decides which non citizens suspected of terrorist activity will be tried in military tribunals. Thus not only does this give the President a new source of power, but, perhaps more importantly, debate is once again, not an option.

The measure, aimed as it is at all non-citizen residents of the United States, encompasses some 20 million people who are here legally, many of whom have been

here for many, many years and who contribute to the society in countless ways. There are moral issues that revolve around the separation between citizens of the United States and non-citizen residents. We live and work in the same communities, legal residents contribute greatly to the economic and cultural life of the U.S., why then set them aside for this treatment? And why suppose implicitly that citizens are not or cannot be involved in terrorist activities? Is it not the case that citizens can also be terrorists? Indeed we have tragic and ample evidence that this can be the case. Why then the different legal treatment between citizens and non-citizens?

Another set of moral questions has to do with concerns about what happens to community, to trust, cooperation, to enjoyment of community when portions of it are separated out as suspect and treated differently? Here the memory of the camps for the Japanese Americans during World War Two should give us pause. In recent years many public figures have expressed their shame at their war time support of the Japanese internment camps and their regret that Japanese citizens were not more fully trusted as integral members of their communities. The U.S. government it seems is currently making a similar mistake as it now begins to treat non-citizens, especially those from certain countries, with a similar suspicion and a potential suspension of basic rights that in principle apply to all. What then critics ask, have we learned morally from the internment of the Japanese during World War Two? At what point should or will this rupture of community become a common concern?

Terrorists exist, probably right here in the United States, and they do have accomplices. Both the terrorists and their accomplices do need to be aggressively identified and brought to trial. But even for those who are guilty or may be guilty of

terrorist acts, as heinous as their crimes are or may be, is it morally acceptable to treat them in a way that sets them apart, as if they are a different species? Should they rather be treated not differently, but as people who are entitled to the protection of the very laws that were created and perfected over the years to protect precisely those like the terrorists who are considered guilty of unfathomable crimes?

Tolerance

There is considerable irony in the fact that the terrorists, whose freedoms were sharply curtailed by their own governments in their countries of origin, took full advantage of the civil liberties enjoyed in the United States, including the freedom to practice religion. They used these freedoms, freedoms not available in many countries of the world -of movement, of religion, of financial transfers and so forth - in order to plan and carry out their attacks. Indeed given the legal restrictions in many of their countries of origin it is likely that if they hadn't been able to live in states guaranteeing considerable civil liberties, in this case, Europe and the United States, it would have been impossible to have planned and executed their attacks against the United States. Just as they used U.S. technology against U.S. targets, the terrorists used U.S. civil liberties against the country that had guaranteed them.

These attacks represent a considerable challenge to the ethos of tolerance in the North American society. This challenge is new in the violent manner with which it is posed by these terrorist acts, but the fact that the liberties of a tolerant society are enjoyed both by those who would ensure the liberties of others and by those who use the liberties of a tolerant society in order to preach and practice intolerance, is not a new challenge.

This is a moral conundrum which asserts itself with some regularity in a variety of ways in North American history. Should one advocate and practice tolerance towards those who one knows will use the legal rights and values of tolerance against its practitioners and the system itself? Can one morally do otherwise?

The freedom of religion in the United States is a highly valued civil right. How absolute that right is when it is abused by those who would violate other valued civil rights in the name of their religion, or for the sake of the practice of their religion, is a question that is open for on-going moral discussion and legal decisions. U.S. courts for example have often demonstrated their willingness to violate the freedom of religion of Christian Science parents for the sake of the state protecting the right to life of the child whose parents do not want to treat him or her with conventional medicine.

Immigration

While no new dramatic laws are yet in place regarding immigration, it is clear that inside the United States and at the borders the unwritten rules have changed. The U.S. has announced that it will be slow to grant visas for young men from a number of countries considered as those which harbor terrorists and encourage terrorism. Also the recent crackdowns on student visa violations are new. Colleges and universities many of whom have considerable international student populations, are concerned about changing immigration practices. They are also concerned about their moral and legal roles in the interviewing of targeted international students, or in identifying visa violations to the authorities. Academic institutions are used to guarding their student records with great

care. Now they worry about changing that practice and worry too about the effect their participation may have on student trust, on student community and on student enrollment.

Immigration laws and practices are issues about which lively, informed debate is badly needed. Immigration law changed dramatically in 1967 when the U.S. started admitting an unprecedented number of immigrants from around the world. Interestingly, the 1967 immigration law is the source of much of the religious pluralism suddenly so evident in the United States today. Immigration priorities have in recent years clearly been oriented toward the accommodation of business, manufacturing and agricultural interests who are strong advocates of ever new sources of plentiful, cheap labor. If the intention and practice of immigration law is to change, there should be a substantive, national debate.

There are always those in moments of crisis such as this period since September 11, who will advocate the importance of the unlimited power of government to put a quick end to whatever threat there may be to safety. The military dictatorships of the Southern Cone of Latin America in the 60s and 70s counted on the majority of their populations making just this kind of calculation. In fact the ideology, developed in Latin America with the help of the U.S. Military, used to justify the suppression of civil liberties for the sake of public security was called the "Doctrine of National Security." It was a doctrine which appealed to people's fear of unknown internal enemies related to and aided by external enemies (communists), seeking to undermine the beliefs and way of life of South American countries, and which therefore justified unprecedented military and police power and the curtailment of civil liberties inside each country.

There are also always those who will just as fiercely advocate vigorous defense of the full range of civil liberties which are after all the hard won accumulation of centuries of struggle, even if these rights may be used by those seeking harm to others or harm to the system of government itself. This position is one that values civil liberties so much that it is willing to sacrifice even some amounts of safety in order to protect them. Thus during the Viet Nam war, those who were against the war asserted their right to dissent even while the nation was at war, much to the fury of those on the other side of the issue. They also asserted the need to control government's authoritarian impulses even in moments of crisis, and the importance of healthy national debate.

On balance we have as a nation learned a number of things that we forget at our own peril in these difficult days. Whether it be the experiences I site here - the Japanese internment during World War Two, the experience with the Doctrine of National Security in the Southern Cone countries in the 60's and 70's, and the experience of the Viet Nam war, - or the many, many other common experiences that one could site, our moral thought is in part shaped by and informed by these experiences and their contemporary parallels and analogies. In fact, one could argue that one national moral imperative is to remember what we have already learned.

The Religious Response

Over the months since September 11 one searches in vain for substantive public responses to the issues of internal security and civil liberties, on the part of the many religious communities in North America. Many religious communities moved quickly in their pastoral responses to the tragedy of September 11, and some religious communities

were quick to express their hopes for a measured and reasonable U.S. military response in Afghanistan, and a number of religious communions have underlined the need for justice not revenge, in response to the attacks on September 11. But in regard to the issues of internal security and civil liberties, religious communities, whether Christian, Muslim, or Jewish, have not been vocal or visible. Consequently, members of religious communities are by and large left to think through these issues largely without aid from their religious leadership.

And yet, each of these religious traditions has ample resources to draw upon for such reflection. In Christianity at least three broad themes emerge as one moves towards the formation of a Christian ethical response to the questions and dilemmas posed by the tensions between internal security and civil liberties. The themes are Christian orientation towards the stranger, Christian understandings of human sin, and the Christian relationship to political authorities. I will discuss each in turn.

Hospitality to the Stranger

The question of the stranger is and has been a central moral theme in Christianity. It is a theme that one confronts repeatedly in both the Hebrew Bible and in the New Testament. In these texts repeatedly and in varieties of ways faithfulness to God is viewed through the lens of the relationship to the alien or the stranger. Thus time and time again the faithfulness of an individual or even the faithfulness of a whole community is either tested by its treatment of the alien in its midst or in turn assessed according to the treatment of the stranger.

Central to the Christian faith is the understanding that love of God and love of neighbor go together, they are essentially inseparable. In the New Testament book of Luke the author recounts a story of Jesus telling the story of someone who has been robbed and left at the side of the road. Twice people from his own tribe pass him by without stopping to help. The third person who passes stops to help. This third person however is a Samaritan, someone who is from outside the tribe of Israel. As Jesus finishes telling this story he asks his interlocutors: “which of these three, do you think, was a neighbor to the man who fell into the hands of the robbers?” The man replied “The one who showed him mercy.” Jesus said to him, “Go and do likewise.” (Luke 10: 36-37)

In this story as elsewhere Jesus teaches that the love of neighbor includes the love of the stranger. The stranger *is* the neighbor, regardless of the differences such as tribe or kinship prescribed by social convention. In stories such as this one and in the stories of Jesus’ own actions, the stranger, the alien, the outcast, the poor, are reached out to, embraced, included. This inclusion, this hospitality to the stranger, this willingness to see through social convention and established practices in order to serve the stranger and the ability to perceive that the stranger is indeed the neighbor is a central requirement of faith. This treatment of the stranger is suggestive today as communities across the country ponder the questions of strangers in their midst - especially those who are Muslim.

To suddenly treat those who have been literally our neighbors for decades as strangers, and to separate them from the rest of the community as if they automatically bear the guilt of those who speak their language, come from their country of origin, or

practice the same religion, is an act of fear and intolerance which Christians would do well to question. Christian love of the other, the stranger, is manifest in the social world as an active concern for open hospitality and justice. The inclusive norms of hospitality towards those that because of their nation of origin and religion many find suspicious should be followed even more carefully than usual. The fact that this is a nation composed almost entirely of immigrants adds weight to the importance of an ongoing ethic of inclusive hospitality for the millions who have done nothing wrong and find themselves caught in this conflict.

Clearly it is the case that there may be some among us, or from outside of the boundaries of the United States who are guilty of crimes related to terrorism. Even for these people, however heinous their crimes may be, if the established norms of justice in practice in this country are to be violated, the reason and the need to do so must be very clear indeed. The moral burden to demonstrate urgent necessity is clearly on those who advocate suspension of rights. Even for the guilty the Christian understanding of love is one that advocates justice and which takes as ongoing the active concern for humane conditions for all imprisoned, and just and fair legal treatment of those who have been arrested.

Human Sin

The second broad theme helpful at this moment as we think about civil liberties is the theme of human sin. In the Christian tradition sin is understood as part of the human condition and thus part of each human being regardless of who or where he or she is. This understanding of sin is one that thus inevitably includes the self, the groups to

which one belongs and even the nation to which one belongs. The ubiquitous presence of sin among humanity is an understanding of sin which may act so as to encourage one to be quicker at self-critique, and slower to exclude even the terrorists and their sympathizers from the ranks of humanity, than has been the general public in the last months.

The distribution of sin among all of humanity is also an understanding, which enables one to perhaps be less likely to think exclusively in terms of ‘us ‘and ‘them’. This ability to think outside the easy labels and thus more cautiously and carefully in ways which do not attribute only good to one side and only evil to the other is not popular at times of war when people want quick and easy answers and want also to be assured that theirs’ is the righteous cause. And indeed it has not been popular during this time of conflict, either with citizens or their leaders. But while perhaps not appreciated in such times of fear and conflict, the refusal to demonize even one’s enemies is a necessary and important contribution to debate, and one that Christians, among others, could offer.

The theologian Reinhold Niebuhr describes sin as (in part)the temptation of people who are in fact full of limitations, to see themselves as without limits, and, thus accordingly, to see the other as the carrier of all sin and limitation. This temptation to view the self and the groups to which one belongs as good and the other as evil is particularly true of social groups according to Niebuhr. Individuals are more likely to be able to think more complexly than the groups to which they belong. But be it as individuals or groups Niebuhr writes: “But man is destined, both by the imperfection of

his knowledge and by his desire to overcome his finiteness, to make absolute claims for his partial and finite values. He tries, in short, to make himself God.”⁵

Elsewhere Niebuhr makes the same point in a way that seems as if he were speaking directly both to the people of the United States and to the terrorists who attacked it:

“Nothing short of the knowledge of the true God will save them from the impiety of making themselves God and the cruelty of seeing their fellow men as devils because they are involved in the same pretension.”⁶

Paul Tillich, who knew war even more directly than Reinhold Niebuhr, also emphasizes the importance of careful and subtle thought and a realistic awareness of limits especially in times of international conflict and security fears at home. He sometimes writes about this theme using the image of “saying yes and saying no.”

“Yes alone is the arrogance which claims that its limited truth is the ultimate, but which reveals by its fanatical self-affirmation how many hidden No’s are present in its ground. No alone is the resignation which denies any ultimate truth but which shows by its self-complacent irony against the biting power of every word of truth how strong the Yes to itself is that underlies its ever-repeated No.

Truth as well as life unite Yes and No, and only the courage which accepts the infinite tension between Yes and No can have abundant life and ultimate truth. How is such a courage possible? It is possible because there is a Yes above the Yes and a No above the No of life and of truth. But it is a truth which is not our own.”⁷

Autonomy

Finally, it is important at times such as these for Christians to think through their many relationships with the state to which they belong and its governing authorities.

Western history is replete with examples of the wide range of possibilities in this relationship, going from Christian legitimation of and unquestioning support of the State

regardless of what it does, to Christian resistance to governmental authorities, at least on the part of some groups, over matters of conscience such as that of slavery. The Protestant theologian Paul Tillich who lived in Nazi Germany and then the United States during World War II is careful to admonish Christians that “this truth which is not our own” referred to above, is not the truth of the civil authorities of the states to which we belong. Thus Tillich believes it is important not to identify too closely as a Christian individual or group with any given state, but rather to guard a relative autonomy and independence of thought and values. Here also it is important to say both “yes” and “no.”⁸

Such Christian leaders as Martin Luther King also demonstrate the importance of maintaining a loyal but critical distance from governments and authorities. This distance enables one to raise questions, to think for oneself as a person of faith, to see things from fresh angles. This distance also ensures against the temptation of religious authorities to lend their legitimacy and authority uncritically to the civil authorities. While loyalty is important especially at times of war one way religious authorities can be loyal is to ensure the requirements of justice, through such things as demanding that the civil authorities act with the greatest possible transparency in decision making, that the authorities give substantive reasons for the decisions made, and also to seek the assurance from the proper authorities that the measures taken are directly responsive specifically to the needs of security and not to other agendas or fears or prejudices.

Like the people they represent, democratic governments are not always wise, they can make serious mistakes especially in times of war, mistakes that might be prevented in a context of open discussion and debate. At the very least, open discussion invites the

full range of opinion in the society, and it may act helpfully to brake government action that otherwise would proceed too quickly or move in the wrong direction.

Patriotic zeal and religious faithfulness are not the same thing and cannot be conflated. “God bless America” is a supplication, a plea or a prayer of an insecure people seeking to discern and do God’s will. But both the arrogance of power and the hysteria of fear turn “God Bless America” into a statement of special righteousness and privilege. This leads to the mistaken and dangerous conclusion that God is “on our side.” This facile and simplistic conclusion is one to which Christians should say a resounding ‘No,’ even as we affirm our need for protection.

While the ethical reflection of theologians such as Tillich and Niebuhr do not solve the specific moral problems related to questions of civil liberties and internal security, they do suggest a tone, an attitude which, while respectful of the need to ensure internal security, and to bring to trial the guilty, seeks to be fair minded and dispassionate, welcoming of the stranger, which seeks equal justice for neighbor and stranger and which is ever aware of its own limitations.

It is likely that even agreeing on a common approach, Christians will not always agree among themselves or with others, on where the lines should be drawn in the tension between civil liberties and internal cohesion or security. Indeed the lines can be and are drawn in different ways in different societies, at different moments in history. Even among democracies in the West the lines can be and are drawn very differently. While agreement is probably impossible, debate about where to draw the lines is very possible and very important. In fact it is in part though vigorous and public debate that Christians can live out their care for justice to the stranger, and also continue to

contribute to the on-going vocation of the United States, a land of immigrants, as a place of refuge, and a space of democratic rights for just such debate.

Public debate, equal treatment of all, the checks and balances of democratic government, are as it turns out, the best kinds of measures available to encourage responsible leadership and careful decisions. One concludes therefore that the morally best, if not the most efficient way to fight terrorism, and thus to ensure internal security, is in the end through the use of the practices and laws of democracy as hammered out over the last several centuries. It seems fitting that since it is the case that terrorists can use the practices and liberties of democracy against that democracy itself, so too can that democracy use its own practices and liberties against the terrorists.

¹ Todd S. Purdum, "Ashcroft's About-Face on the Detainees," The New York Times,

Wed. Nov 26

² 10 Arrested in Visa Cases in San Diego, *New York Times*, December 11

³ *New York Times*, November 30, 2001

⁴ "A Nation Challenged: The Senate Hearing; Ashcroft Defends Antiterror Plan; Says Criticism May Aid U.S. Foes", *New York Times*, Dec. 6

⁵ Niebuhr, Reinhold, *An Interpretation of Christian Ethics*, Meridian Books, (New York, 1956):82

⁶ *Ibid*:213

⁷ *Ibid*: 102

⁸ See Tillich, Paul, "Yes and No." In *The New Being*, (New York: Charles Scribner and Sons, 1955.)