



DEFENDING AGAINST THE APOCALYPSE: THE LIMITS OF HOMELAND SECURITY

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The new war against terrorism creates a need for a new public and governmental perception of, and response to, catastrophic events. Measures to confront international terrorism often combine elements of disaster management and armed conflict. The mixture of emergency response and military effort, and the idea of fighting an ongoing, open-ended “war,” all within constitutional and democratic strictures, presents a challenge for today’s governments and citizens.

La lutte antiterroriste exige du public et des gouvernements qu’ils revoient leurs perceptions, et leurs réactions, à l’égard des catastrophes. Les mesures adoptées pour contrer le terrorisme international évoquent tantôt la gestion de désastres, tantôt le conflit armé. Un dosage entre mesures d’urgence et manœuvres militaires, et la perspective d’une « guerre » constante, le tout dans le respect des limites constitutionnelles et démocratiques, voilà le défi auquel font face les gouvernements et les citoyens d’aujourd’hui.

The September 11 attacks were not simply destructive of lives and buildings. They inflicted profound psychic damage—damage that must be understood if we are to grasp the connections between terrorism and governmental responses. The inner psychological trauma of September 11 was initially linked to shocking images, planes crashing into buildings, occupants jumping to their deaths, and landmark structures collapsing as panicked crowds sought to outrun clouds of debris.

Much of this was seen in real time by immense television audiences. The consequence was to redefine the scope of the events. They instantly became national, indeed international, with vast numbers of vicarious victims. The effect of mass communications in this case, as in the assassination of John Kennedy nearly four decades earlier, was to transform spectators into survivors.

The imagery of September 11 was not simply shocking or frightening. It was apocalyptic, for it seemed to manifest world-destroying power. The very name given to the World Trade Center site—“ground zero”—came from the lexicon of nuclear weapons, themselves associated with the capacity to destroy civilization. Such connections were quickly

grasped by religious millennialists. John Hagee, a San Antonio evangelist, watched the television coverage and, as he put it, “recognized that the Third World War had begun and that it would escalate from this day until the Battle of Armageddon.” An Internet book service patronized by Protestant fundamentalists polled its customers and found that 65 percent thought the “war on terrorism” was preparing the way for the end-times.

These millenarian associations were reinforced by the attackers themselves, acting from religious motivations, and by their presumed mentor, Osama bin Laden, who combined messianic pretensions with a claim that terrorism is part of an ongoing war between believers and infidels.

But these apocalyptic associations were not limited to religionists. The television images triggered instant references to secular popular culture. In a widely reported interview, the film director Robert Altman observed: “Nobody would have thought to commit an atrocity like that unless they’d seen it in a movie.” In fact, urban cataclysms had long been staples of both popular fiction and motion pictures, expressions of what Susan Sontag has called “the imagination of disaster.” Thus Stephen Vincent Benet’s 1937 short

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story, "By the Waters of Babylon," described a desolated future Manhattan of empty ruins.

Such ideas transferred readily to film, especially after World War II demonstrated that cities could in fact be obliterated. By the 1950s, disaster films had become a virtual genre, but as each new calamity numbed the viewer, it became necessary to depict ever more lurid future catastrophes. Thus, for witnesses to September 11, the TV images fused with internalized images from fiction and film.

If the 9-11 attacks were characterized by the vividness of the imagery, the anthrax outbreak was precisely opposite. While some envelopes clearly contained powdered anthrax spores, a number of cases occurred without any visually identifiable disease agent. It scarcely mattered that there were only 23 cases, resulting in five deaths, or that no evidence existed linking the anthrax perpetrators with al Qaeda. In the popular mind, the anthrax outbreak became an extension of the September 11 "story." Now evil too painful to watch was followed by evil that could not be seen. The dramatically visible was followed by the dramatically invisible, the more unnerving for its very invisibility.

What, then, are the implications for what we now term "homeland security?" In the first place, the events have, as I have suggested, played themselves out on two levels: one has been the level of physical destruction that might be quantified in terms of deaths and injuries, persons infected, jobs lost, buildings destroyed. The other has been the level of perception, played out in the minds of millions of Americans. And, as Jessica Stern noted well before these events, one of the dilemmas of government is whether policy decisions should be based on the one or the other: "In other words," she asks, "should dangers that evoke disproportionate fears receive disproportionate resources?" And what, indeed, does "disproportionate" itself mean in a political system that is supposed to be responsive to the expressed desires of the electorate and where few standards exist for establishing proportionality?

There are also problems of feasibility. Thirty years ago, Hannah Arendt suggested that civilian populations could no longer be defended, a change that compromises the very purpose of military organizations. Defense might still be possible through such indirect mechanisms as deterrence, proxy wars, or pre-emptive attacks, but large armed forces themselves do not necessarily confer security on a state's citizens. Arendt

attributed these changes to the invention of weapons of mass destruction that could be used with little or no warning time.

However, the World Trade Center attack was a mass casualty event not produced by weapons of mass destruction, as these have traditionally been understood. Rather, immense destruction was achieved with weapons no more exotic than the box cutters required to commandeer the aircraft. If one excludes the emergency workers drawn by the attack, the dead were fortuitous victims—present by virtue of an airplane ticket or a job.

Their—and our—vulnerability reflects what Harold Lasswell called the "socialization of danger," in which the risk of attack is no longer primarily borne by military personnel. Weapons may be indiscriminate, adversaries may deliberately target civilians, and, as has already been noted, the ability of the military to defend civilians has become problematic.

It is not even clear where the dangers lie. Thomas Friedman said the 9-11 attacks were not so much failures of intelligence as they were failures of imagination. Few had previously considered the use of fully fueled civilian airliners as missiles. Where warfare could once be analyzed in terms of relatively fixed categories of weapons and tactics, we now face a world filled with dangers that we may not be able to conceive. In such a world where "all things are possible," the capacity to adjust to new possibilities necessarily falls behind. It is difficult to create contingency plans for inconceivable contingencies.

At the same time, the pressure on authorities to "do something" cannot be resisted. Thus there has been anti-terrorism legislation on an almost yearly basis. There is little evidence that these measures significantly reduced the danger, but they did serve as exercises in symbolic politics to soothe an anxious public.

Such efforts began again shortly after September 11 with the creation of an Office of Homeland Security. These efforts are ongoing, and while their full development has not yet taken place, the possibilities are already evident.

From the president's initial comments, it became commonplace to refer to the attacks as "acts of war." The conflict in Afghanistan reinforced this tendency. However, classifying the attacks and the response in terms of armed conflict significantly oversimplifies both public and official reactions. While the analogy to war surely captures much of contemporary perceptions, it also misses a significant element—namely, the extent to which these events have also simulta-

neously taken on the attributes of “disasters,” with consequences similar to those of more conventional fires, plane crashes, and natural calamities. These attributes have colored our perceptions of terrorism as well as actual and proposed governmental responses to it. We have come to view the events of September 11 and the ensuing anthrax outbreak as both “acts of war” and “disasters.” Indeed, as we shall see, it is precisely the mingling of the two categories that makes “homeland security” so problematic.

Some researchers have tried to define “disaster” in terms of some threshold level of destruction. However, these efforts have been unsatisfactory, because limited physical destruction sometimes produces the same responses as much broader devastation (as, for example, after the assassination of President Kennedy); and because large-scale destruction does not always evoke reactions proportionate to the damage (as, for example, in the case of the influenza epidemic of 1918).

In the end, “disaster” is better understood as a mental construct that people place on experience. What matter most may be the prevailing sense of vulnerability, the adequacy of available explanations of misfortune, and a society’s representations of death and destruction. Depending upon these factors, some collective-stress events are perceived as “disasters,” while others may be borne with a stoic sense of the vicissitudes of life. Events as dissimilar as the World Trade Center attack and the anthrax outbreak may be similarly categorized despite enormous differences in the scope of damage.

Over the last hundred years, an important shift has occurred in the popular conceptualization of disaster. Natural disasters—earthquakes, hurricanes, and the like—have shrunk in significance. This is a consequence of improvements in prediction, explanation, protection, and emergency response. While they still present dangers, they do not call forth the same fears that they once did. Their place has been taken by manmade disasters, a litany of which can be readily constructed: from Bhopal, to Chernobyl, to September 11.

An important characteristic of manmade disasters is their potential unboundedness. Unlike natural disasters, which tend to recur in much the same ways, manmade disasters can be distinctively different from one another, because of alterations in technology and in the motives of perpetrators. It is difficult to predict either their spatial or temporal limits. The connecting links among individuals and nations—highways,

power grids, information networks, and so on—make possible not only the sharing of benefits but the expansion of risks. Dangers pass from the impact area along spreading lines of contact. It is difficult to isolate a manmade disaster in such a world of interdependencies.

Insofar as recent terrorism is concerned, we are therefore in the process of blurring the line between “attack” and “disaster,” with profound policy implications. To the extent that we understood September 11 as an “attack,” it was an “act of war” that implied a military response. That response began in Afghanistan on October 7th, and at this writing, is now moving toward a conclusion. To the extent that we understood September 11 as a “disaster,” that implied a civilian emergency response. As in disasters generally, the “first responders” to the World Trade Center were civilian police, firemen, and rescue workers. They took casualties far heavier than those so far borne by U.S. military personnel in Afghanistan.

One can, of course, argue that the dual military and civilian responses were dictated by characteristics of the situation. The political agenda of the hijackers, and al Qaeda’s presence in Afghanistan, mandated a projection of American military power, while the immediate needs at the World Trade Center and the Pentagon automatically activated the appropriate civilian agencies.

However, the combination of attack/response and disaster/response had begun to appear in counter-terrorism policy proposals before September 11, so that 9-11 merely reinforced existing predispositions.

A proposal to combine the two was offered almost exactly a year ago in the final report of the United States Commission on National Security in the 21st Century, better known by the names of its co-chairs, Gary Hart and Warren Rudman. The Hart-Rudman Commission can hardly be faulted for lack of foresight, for it predicted, “A direct attack against American citizens on American soil is likely over the next quarter century.” Their central proposal was for the creation of a cabinet-level National Homeland Security Agency (NHTSA). The core of the new agency would be the existing Federal Emergency Management Agency (FEMA), augmented by the Customs Service, Border Patrol, Coast Guard, National Infrastructure Protection Center, and a number of other units presently housed elsewhere. In addition, the new NHTSA would have close links with the Department of Defense through a new Assistant Secretary of Defense for

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Homeland Security and a reconfigured National Guard. The latter would take on “homeland security” as its primary mission. Department of Defense involvement would also take the form of a Joint Task Force with responsibilities for the integration of homeland security concerns into training, doctrine, and command and control. Much of this proposed reorganization had already been embodied in pending legislation when the September 11 attacks occurred.

The proposals promised an end to the redundancies and turf wars of the present jurisdictional patchwork. The proposals’ attractiveness, originally based on their organizational rationality, has now been reinforced by the fears of an anxious and vulnerable public.

Such a fusion of national defense with disaster preparedness has already been implemented in some European countries, notably in Sweden. Under the Swedish model, “national security” has been reconceptualized to cover emergencies that range from natural disasters and industrial accidents to military attacks. This conscious blurring of the line between military and civilian emergency response appears to reflect the circumstances of a small, unitary state whose population is highly concentrated in a few urban areas, and whose military establishment is in search of a post-Cold War mission.

The implications of such a model for the United States are quite different, given the differences in scale, political structure, and international role. In addition, events like those of September 11 present special challenges in terms of policy implications.

As I hope my earlier remarks made clear, the perception of recent events is more powerful than any objective damage assessment. Indeed, as a practical matter, in this case as in other crisis situations, perception is reality. That being so, the result is a disturbing paradox: the overwhelming magnitude of the perceived danger—what I earlier referred to as its apocalyptic quality—appears to mandate an immediate and radical response. Yet even the most dramatic mobilization of capacities cannot produce the total security most people desire. If the goal is the complete elimination of a terrorist threat on American soil, even the most draconian measures will fail. We have yet, as a society, to face the question of what level of risk is acceptable. Just as we recoil from the need to allocate scarce medical resources, so we avoid the question of the level of safety that is practical and acceptable. Further, there is good reason to believe that whatever

added security is purchased will be paid for in disturbing unintended consequences.

Ironically, counter-terrorism proposals based on the fusion of war and disaster may well stimulate the very violence they seek to avoid. The American radical right has long feared a tyrannical regime built around the Federal Emergency Management Agency. The FEMA rumors are a staple of militias’ subculture, whose members believe the federal government will concoct a crisis to provide the pretext. Indeed, some right-wing Web sites have already speculated that the September 11 attacks were staged for just this reason. To the extent that homeland security proposals link disaster response with national security, they unknowingly play to precisely these paranoid fantasies. The unfortunate result is likely to be an upsurge in domestic terrorism as a byproduct of defense against transnational terrorism.

Intrinsic to many homeland security proposals is a revision of existing civil-military relationships. Whether the issue is drug trafficking or civil disorder, the armed forces have been viewed as the resource of last resort. The current presence of armed and uniformed National Guard personnel at airport security checkpoints is merely the most recent manifestation of this tendency. The traditional barrier to military involvement in domestic law enforcement, the post-Civil War Posse Comitatus Act, has been significantly loosened by recent amendments, and may well be altered further.

At the end of the Second World War, the constitutional scholar Edward S. Corwin voiced similar misgivings when he noted that “the restrictive clauses of the Constitution are not, as to the citizen at least, automatically suspended, but the scope of the rights to which they extend is capable of being reduced in face of the urgencies of war, sometimes even to the vanishing point, depending on the demands of the war.” Such fears might appear overblown if the crisis were seen to have clear boundaries. In Britain during World War I, the expression “for the duration” gained currency as shorthand for the period until the war ended. The same idiom returned in both Britain and the United States during World War II, with the same meaning. It made intuitive sense precisely because, as conventional wars, the two world wars were expected to, and did in fact have, clear beginnings and conclusions, ending when one set of belligerents sued for peace.

The present situation, however, is not of that kind. Indeed, from the president on down, high

officials have been at pains to warn that the war against terrorism will be a struggle of uncertain length. Hence measures of an emergency character imply a more open-ended commitment than those in previous conflicts. To the extent that war and disaster have been conflated, the war against terrorism partakes of the unboundedness of man-made disaster, the inability to predict targets, weapons, or consequences; hence the inability to place clear limits on the defensive means that might be employed.

The idea of an open-ended “war on terrorism” links the old conception of war-as-armed-conflict with more recent metaphorical usages, such as the “war on poverty” and the “war on drugs.” Unlike the latter, however, the present struggle can potentially result in a permanent condition of domestic vigilance institutionalized in law and practice.

Such an outcome is made more likely by the contemporary overlapping of “war” and “disaster.” It implies that all forms of emergency response must be linked, whether civilian or military, national or local. This potential breaching of boundaries between types of response mirrors the breaching of conventional boundaries among types of threats. Thus, there are no longer clear distinctions between war and peace, war and crime, and war and disaster. Rather, myriad forms of “low-intensity” conflict inhabit a transitional zone of ambiguous events.

The temptation to follow these changes with parallel alterations in governance is considerable, yet in my view need to be resisted. In the first place, they threaten to radically destabilize the federal system by shifting law enforcement responsibilities, traditionally state functions, toward the national government. As some conservative lawyers have already pointed out, this may not only jeopardize constitutional arrangements but may also be bad counter-terrorism policy, inasmuch as complex systems are better protected by redundancy than by centralization.

Second, by combining disaster-response with an open-ended war on terrorism, advocates of proposals such as those of Hart-Rudman in effect routinize emergency. The notion of routinized emergency may seem oxymoronic until we remember that, like “disaster,” “emergency” is a construction placed on the world rather than an objective condition. Homeland security arrangements that make emergency a chronic condition, whether by invoking war, disaster, or both, bring to mind Alexander Hamilton’s warning in Federalist #8: The violent destruction of life and

property incident to war, the continual effort and alarm attendant on a state of continual danger, will compel nations the most attached to liberty to resort for repose and security to institutions which have a tendency to destroy their civil and political rights. To be more safe, they at length become willing to run the risk of being less free.

Dangers of this type flow from the inability to discriminate between law enforcement problems and national security problems. A small foretaste of the difficulties has been presented in the debate about the appropriate forum for trying those suspected of involvement with al Qaeda. However, issues of classification spill over into problems of governance, for if a problem is understood to be one of national security, government will be given far more latitude than if the problem is regarded as one of law

enforcement. The tendency has been to discuss the issue as if it were primarily one of moral judgment: in this view, the “law enforcement” label is seen as misplaced because it allegedly reduces the seriousness of the offense or gives to the offender rights that he does not deserve. In contrast, “national security” signals the total mobilization of available resources against enemies to whom one owes relatively little. However, the issue is less one of providing just desserts to malefactors than it is of preserving necessary restraints on the exercise of power.

As Hamilton recognized, national security imperatives, which imply that the survival of the society may be at stake, can legitimize a wide range of exceptions from normal political and legal practice. It was those exceptions that Harold Lasswell had in mind when he wrote his influential and prescient 1941 essay, “The Garrison State.” That is a state, Lasswell said, dominated by those he called “the specialists on violence.” While he primarily had military personnel in mind, he noted that in technologically and organizationally complex societies, specialists on violence would also have to possess a significant array of civilian managerial skills. Homeland security measures predicated on a fusion of disaster preparedness and military defense require precisely that sense of routinized, chronic emergencies that form the basis for the garrison state.

The danger posed by such a governmental reorientation is greatly lessened when the emergency is brief, and where an idiom like “the duration” remains meaningful. However, clear boundaries are precisely what modern terrorism

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lacks. It cannot be definitively tied to a territorial base. Rooting al Qaeda out of Afghanistan does not prevent its re-emergence elsewhere. These are, to some extent, “acephalous” organizations, unlikely to have a single “head” whose removal will immobilize the constituent cells. Because such organizations operate in secrecy, it is difficult to be sure of their size, resources, or intentions. As a result, the capabilities of terrorist groups are far more likely to be over-estimated than under-estimated. Despite the wish to take account of worst-case scenarios, there are substantial reasons to avoid responding by institutionalizing major changes in governance.

First, we have been without a clear enemy for 10 years, ever since the Soviet Union collapsed. While that was the cause for rejoicing, it also deprived the West of a moral vision of a struggle between good and evil that had persisted since the late 1940s. For more than 40 years, our sense of national identity was closely linked to the presence and hostility of the Soviet Union. Once the threat was removed, the world and our place in it became at once confusing and blurred. Osama bin Laden has restored the sense of foreign policy as a struggle between the forces of light and the forces of darkness, but the fact that such simplicity is psychologically comforting does not mean that it should be the basis for far-reaching structural changes.

Second, there is as yet no evidence that any proposed homeland security measures will in fact produce greater security, although they may well create the perception of greater security in the same manner as the troops at airport security checkpoints. The fact that we may feel more secure must be distinguished from any actual reduction in terrorist incidents. Third, many of

the recent and proposed changes have been most strongly driven by fear of weapons of mass destruction. Bin Laden and his circle have clearly been interested in such weapons (as, by the way, have some domestic extremists). It hardly needs emphasizing that we must prevent if at all possible their acquisition of nuclear, radiological, biological, or chemical weapons. Fortunately, however, these weapons tend to be extremely difficult to obtain, maintain, and utilize. Against this one must weigh the fact that even very modest casualties, such as those produced by the anthrax mailings, can provoke high levels of fear.

If I end on a note of uncertainty, it is because so much remains uncertain. Since that is the case, the one conclusion that seems inescapable is this: the temptation to launch broad, systemic changes should be resisted, both because they may not do good and because they may do harm. Instead, a more prudent path is that of incremental experimentation, where outcomes can be monitored, approaches modified, and initiatives developed. While this may lack the immediate political appeal of the “grand gesture,” it suggests a strategy more conducive to long-term safety.

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À propos de l'union sociale canadienne : « L'ECUS est porteuse d'une conception de la nation propre au Canada anglophone où les provinces acceptent de prendre le gouvernement fédéral pour centre dans le cadre d'un fédéralisme intra-étatique. Cette conception s'oppose à la vision du Québec, pour qui la nation prend sens à l'échelle de la province et pour qui le fédéralisme se comprend comme un partenariat entre plusieurs logiques nationales portées par des États mettant en commun diverses compétences dans le cadre d'un fédéralisme intergouvernemental. Et comme, en pratique, ces deux conceptions ont une assise territoriale et linguistique différente, leur articulation, par ailleurs appelée par une histoire commune et des valeurs sociales partagées, est possible au sein d'un fédéralisme multinational conforme à la fois à la conception éthique québécoise et à l'évolution pragmatique des provinces anglophones vers une union dominée par Ottawa. La dynamique politique de l'ECUS ouvrirait ainsi une perspective de compromis entre les trois scénarios 'fédéralistes' débouchant sur une forme multinationale 'partenariale' largement inédite de fédéralisme intergouvernemental. »

Tiré de : Bruno Théret, « L'union sociale canadienne dans le miroir des politiques sociales de l'Union européenne », *Enjeux publics* (IRPP), août 2002, page 24.

The Homeland Security Act (HSA) of 2002, (Pub.L. 107â€”296, 116 Stat. 2135, enacted November 25, 2002) was introduced in the aftermath of the September 11 attacks and subsequent mailings of anthrax spores. The HSA was cosponsored by 118 members of Congress. The act passed the U.S. Senate by a vote of 90-9, with one Senator not voting. It was signed into law by President George W. Bush in November 2002.