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30123 Venezia

**Dehumanized Prevention:  
Where are we Failing in Dealing with  
Counter-terrorism?**

**Supervisors**

Ch. Prof. Sara De Vido  
Ch. Prof. Bruna Bianchi

**Graduand**

Aurora Martina Granata  
Matriculation Number 846138

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## Abstract

Gli attacchi terroristici di Parigi dello scorso 13 Novembre 2015 hanno segnato un punto di svolta nella canonica concezione della lotta al terrorismo. Sebbene il cambiamento non sia stato voluto o auspicato dalla Coalizione contro il terrorismo nondimeno esso ha costretto le maggiori potenze del mondo a dover fronteggiare una problematica essenziale, ovvero il ripensamento delle politiche di prevenzione e contrasto del contro-terrorismo. Lo Stato Islamico, o ISIS nella sua abbreviazione, ha raggiunto uno stadio evolutivo talmente avanzato da arrivare a possedere una potenza offensiva e persuasiva senza precedenti. Tuttavia, questo movimento non è maturato negli ultimi due anni, bensì a causa di condizioni pregresse che hanno portato al potenziamento delle sue capacità organizzative e offensive. Le politiche e le decisioni che sono state intraprese dopo gli attacchi americani alle Torri Gemelle, al Pentagono e a Washington D.C. il 9 Settembre 2001 hanno contribuito ad alimentare la radicalizzazione islamica e, di conseguenza, le organizzazioni terroristiche che la fomentano. La presente tesi è stata intitolata "*Dehumanized Prevention: Where are we Failing in Dealing with Counter-terrorism?*" per sottolineare l'assunto fondamentale dell'analisi, incentrata sulla considerazione che le politiche intraprese dalle potenze occidentali hanno effettivamente contribuito ad accrescere il fenomeno della radicalizzazione jihadista invece di alleviarlo. Infatti le politiche di prevenzione del terrorismo si presentano come disumanizzate e disumanizzanti, in quanto privano l'uomo della sua intrinseca umanità morale e fisica. Le domande che sono state poste per il corretto sviluppo delle tematiche sono state essenzialmente le seguenti: quanto i paesi Occidentali sono responsabili per la nascita del terrorismo di matrice islamica che allarma il mondo contemporaneo? In quale misura le direttive odierne possono essere considerate ancora efficaci, se mai lo sono

state, nel debellare questa minaccia? Il contrasto militare è davvero la soluzione migliore oppure un'altra strada sarebbe più consona? Nelle pagine che seguono si cercherà di riassumere brevemente e a grandi linee gli argomenti più importanti che sono stati trattati nella dissertazione.

Nel primo capitolo il punto d'inizio è segnato da una considerazione sui concetti di globalizzazione e sovranità i quali, nel corso dell'ultimo secolo, hanno subito un'alterazione epocale che ha portato il mondo conosciuto a passare da una serie di blandi legami economici e diplomatici intessuti dalle casate regnanti e nobiliari del mondo europeo, alla frenesia dell'interdipendenza globale dove governi, per lo più democratici, s'influenzano vicendevolmente tramite numerosi vincoli politici, economici, sociali e culturali che i capi di stato sanciscono con trattati di valenza internazionale.

La globalizzazione, con le sue molteplici sfaccettature è un fenomeno che ha influenzato profondamente il concetto di stato-nazione e ancora oggi vi sono diversi teorici che la temono poiché vedono in essa una minaccia alle tradizioni locali. Di fatto, nei secoli precedenti alla Rivoluzione Francese la società si presentava come maggiormente gerarchizzata in cui ognuno era consapevole della sua posizione sociale e la mobilità era pressoché inesistente. Il classismo permetteva al singolo d'ottenere una sicurezza identitaria infrangibile poiché lo spazio decisionale in cui poteva operare era molto limitato. Al contrario, l'avvento della mondializzazione e la creazione di grandi organizzazioni internazionali come le Nazioni Unite e l'Unione Europea, ha messo in discussione le certezze dell'uomo e della donna contemporanei. Il famoso filosofo Zygmunt Bauman in uno dei suoi libri più famosi ha cercato d'analizzare la decostruzione identitaria dell'individuo, ponendo l'accento sull'importanza e l'onnipresenza del concetto di paura. Bauman sottolinea come la società moderna sia timorosa nei confronti di qualsivoglia forma di cambiamento radicale e/o frenetico, dal momento che le aspettative rivolte nei confronti del singolo sono aumentate in maniera esponenziale ed egli, al

contrario, non ha maturato una conseguente mentalità abbastanza elastica da potersi adattare alle nuove sfide che il mondo gli propone.

L'angoscia esistenziale che attanaglia l'essere umano odierno lo porta a rinchiudersi in una realtà ristretta, ove può fuggire dagli innumerevoli stimoli che lo colpiscono quotidianamente. Solitamente, per cercare di ricostruirsi uno spazio identitario autonomo, egli cerca di formare una comunità di simili da cui non ha nulla da temere, e in cui si sente accettato e ben inserito. Secondo analisti e filosofi come Erich Fromm e Hannah Arendt, la paura dell'alterità porta a conseguenze potenzialmente pericolose per la collettività, poiché possono aprire le porte all'autoritarismo. Fromm individua diversi meccanismi di fuga utilizzati da due individualità principali, il masochista e il sadico, che permettono a questi due attori della scena sociale d'occuparne un posto preciso senza l'ausilio dell'esercizio del libero arbitrio. Ciò che caratterizza nel profondo queste due figure è la loro consapevole cessione della propria capacità decisionale ad un'entità superiore e autorevole che si suppone agisca per il bene della moltitudine e che per questo non può essere messa in discussione. In questo modo, abdicando alla propria responsabilità personale, essi vengono tentati dalle lusinghe del totalitarismo, ove tutto ciò che viene emanato dall'autorità superiore assume immediatamente forza di legge, come dimostrano le fini considerazioni della Arendt in occasione del processo di Adolf Eichmann a Gerusalemme. Nella Germania nazista ogni parola o desiderio del Führer non poteva essere disobbedito, la mancanza di disobbedienza portò alla creazione di una perfetta macchina di burocrati privi di coscienza che non si interrogavano sulla liceità o sulla moralità della commissione di atti aberranti come il genocidio. Questa deresponsabilizzazione del singolo è divenuta il simbolo di uno dei grandi mali del Novecento che, malauguratamente, sembra essere destinato a ripetersi anche nel Ventunesimo secolo.

Ciò che sta accadendo alla comunità islamica nel mondo rappresenta lo specchio delle paure e dei timori dell'essere umano contemporaneo. Oggigiorno

la parola 'terrorista' evoca immediatamente la violenza politica di matrice mussulmana, portando tutti gli esponenti di tale comunità etnica, culturale e religiosa ad essere discriminati ed allontanati dal resto della popolazione civile. È lecito affermare che a partire dal 2001 i mediorientali sono stati trasformati nel perfetto capro espiatorio moderno, divenendo al contempo vittime e carnefici di sé stessi e dei loro aguzzini. Negli anni Settanta la comunità scientifica pensava che il terrorista fosse un deviato mentale, uno psicopatico, le cui azioni non dipendevano da un credo ideologico bensì da una sorta di pazzia innata. Nel corso degli ultimi dieci anni diversi psicologi, filosofi ed analisti, come Ted Honderich e John Horgan, hanno invece dimostrato che è intrinsecamente e patologicamente errato etichettare coloro che si macchiano di azioni violente come devianti mentali. Durante la fase di reclutamento il terrorista viene valutato attentamente e se non possiede qualità come un elevato grado di resistenza allo stress, calma, pazienza e disponibilità all'obbedienza, viene scartato. Gli vengono richieste determinate caratteristiche che una persona mentalmente instabile non potrebbe offrire in quanto potenzialmente inaffidabile. Il focus degli studi contemporanei, tanto psicologico quanto sociologici, si sta spostando verso l'analisi di altre problematiche maggiormente legate a realtà sociali ed economiche, chiarendo il fatto che il gene della violenza non è appannaggio di una determinata identità etnica. Dunque, il primo capitolo cerca essenzialmente di destrutturare la posizione e l'immaginario legato al terrorista tradizionale, ricollegandolo alle paure ataviche dell'uomo moderno per la sua perdita di sicurezza e fiducia nella società e nel governo.

Il secondo capitolo si concentra invece sulle problematiche giuridiche legate al tema del terrorismo internazionale. Innanzitutto, è necessario sottolineare come sia a tutt'oggi assente una definizione universalmente accettata di terrorismo sotto il profilo del diritto internazionale. Nel corso dei secoli gli atti terroristici e di violenza politica sono stati tratteggiati in vario modo e, dopo la seconda guerra mondiale, furono sancite diverse convenzioni internazionali che ne condannavano il ricorso anche da parte delle forze militari

legittime. Tuttavia, ognuna di esse era dedicata ad una specifica situazione e si riferiva ad un dato movimento che, solitamente, operava in un racchiuso e circoscritto limite territoriale (vedasi le Brigate Rosse, l'IRA, le FARC, l'ETA e altri). La nascita ufficiale di organizzazioni terroristiche transnazionali come al-Qaeda, a partire dai tardi anni Ottanta, ha portato ad un processo di ripensamento giuridico della realtà del terrorismo. La Risoluzione 1373/2001 del Consiglio di Sicurezza dell'ONU è stata la prima in assoluto a descrivere il terrorismo contemporaneo come una minaccia alla pace e alla sicurezza internazionale e ad invitare tutti gli Stati Membri a collaborare reciprocamente su differenti livelli per fermare la minaccia jihadista. Tuttavia, in essa è impossibile trovare una definizione vera del fenomeno, dal momento che diversi stati arabi ed africani in occasione della sua adozione hanno presentato delle rimostranze sulla criminalizzazione dei *freedom fighters*. Solamente con la Risoluzione 1566/2004 le Nazioni Unite hanno definito gli atti terroristici essenzialmente come azioni violente perpetrate allo scopo di costringere un governo, un'organizzazione internazionale o non governativa o addirittura un singolo ad agire o a decidere d'astenersi dall'agire in un dato modo, spargendo terrore nella popolazione civile e colpendo persone ed entità che non prendono parte a nessun conflitto in corso. Un'altra definizione più esaustiva è stata data dall'Unione Europea nella sua Framework Decision 2002/475/JHA, nella quale gli Stati Membri hanno espanso la previa definizione della Risoluzione ONU 1373/2001. Negli ultimi anni, ma soprattutto nel biennio 2014/2015, le Nazioni Unite e le altre organizzazioni internazionali hanno emanato nuove risoluzioni che provvedessero a definire nello specifico il problema riguardante lo sviluppo dello Stato Islamico continuando comunque a non riconoscerne la presunta autorità.

Un altro dilemma riguarda la criminalizzazione dell'atto terroristico in sé, in quanto il diritto internazionale dev'essere in grado di creare gli estremi corretti affinché il terrorista venga consegnato alla legge e processato per il suo crimine. I problemi si pongono sia per quanto riguarda l'opportunità della

presenza di tribunali appositi per l'emanazione della sentenza sia per la posizione che il terrorismo assume nei confronti del Diritto Internazionale Umanitario, delle leggi sui Diritti Umani, e dei conflitti locali ed internazionali. In situazioni di guerra le azioni terroristiche rivolte contro civili, prigionieri di guerra e militari non più in servizio sono, infatti, già regolamentate dallo *Jus in Bello*, così come i diversi stati all'interno dei loro ordinamenti giuridici sono tenuti a criminalizzare a livello penale la condotta terroristica.

Tuttavia, il problema maggiore è costituito dalla presenza dei *foreign fighters*, europei ed australiani per lo più, che abbandonano il loro paese per addestrarsi nelle zone sensibili della Siria, dell'Iraq e dell'Afghanistan. Questo fenomeno massiccio, che negli ultimi due anni ha interessato più o meno fra i 3.000 e i 5.000 giovani europei d'origine araba, ha apportato non pochi problemi ai governi mondiali. I *foreign fighters* s'uniscono all'ISIS essenzialmente per combattere l'isolamento sociale e la discriminazione di cui sono oggetto nelle cosiddette società "civilizzate", nelle quali vengono visti come cittadini di second'ordine. Nella radicalizzazione islamica essi riscoprono un senso d'appartenenza di cui sono stati privati dalla società occidentale, in cui la preoccupazione religiosa è solo una parte d'una serie d'assunti ben più complessi. Puntando sulla propaganda mondiale l'ISIS ha potuto espandersi nel tempo germogliando da al-Qaeda e apprendendo dagli errori di quest'ultima. Il nuovo Califfo Abu Bakr al-Baghdadi ha appreso attraverso l'osservazione e l'esempio delle truppe americane e della società occidentale nella sua interezza, le giuste tecniche da utilizzare per presentare nel modo più accattivante la sua organizzazione, proponendo ai giovani *mujahideen* agevolazioni economiche, materiali, sessuali e spirituali che non vengono offerte loro nei paesi occidentali. Il sistema di previdenza sociale che viene garantito è, infatti, uno dei punti di forza della campagna di propaganda. Lo Stato Islamico arriva perfino a garantire consulenza legale per i migranti che vogliono raggiungere il territorio dell'ISIS ma vengono fermati al confine turco ed invitati a rientrare nel loro paese di residenza. Uno dei fattori più preoccupanti dell'attuale evoluzione del

terrorismo islamico riguarda la conquista territoriale e di potere esecutivo che i miliziani dell'ISIS sembrano essersi guadagnati attraverso la forza e le azioni militari. Essi si differenziano dai loro predecessori poiché controllano un territorio e una popolazione effettiva ove esercitano poteri di governo e d'amministrazione, nel rispetto della teoria tridimensionalistica del diritto internazionale. Ciò che manca allo Stato Islamico per essere considerato un'entità statale effettiva è il riconoscimento della Comunità Internazionale la quale, al contrario, lotta per ristabilire un regime democratico sui territori della Siria e dell'Iraq.

Nel terzo capitolo s'affronta il problema del rispetto dei diritti umani nella lotta contro il terrorismo sotto due ottiche apparentemente diverse ma che, in realtà, sono strettamente collegate l'una all'altra. Entrambi i temi ivi trattati dimostrano, infatti, l'onnipresenza e la preponderanza di valori patriarcali nella formazione dell'identità sociale della comunità mondiale. Il primo tema s'applica prettamente all'ambito della sfera femminile, poiché le idee maschiliste e tradizionaliste hanno sempre esercitato una forte influenza sulla costruzione del ruolo della donna nella società. Essa è sempre stata relegata all'ambito privato della quotidianità, essendo la custode del focolare e dell'unione familiare. All'opposto, l'uomo aveva il compito d'occuparsi dell'ambito pubblico, in quanto maggiormente propenso ad esso per natura. La mancanza d'una rappresentanza femminile nelle sfere di controllo dell'ambito politico ha spesso condotto a scelte infelici, così le organizzazioni internazionali hanno iniziato a lottare per l'accrescimento del ruolo della donna nella società civile, cercando d'introdurla in ruoli d'importanza in modo da allargare gli orizzonti della politica pubblica. Sfortunatamente vi sono ancora diverse parti pubbliche che oppongono resistenza a questa tendenza, come le istituzioni religiose, o che non agiscono in difesa dell'uguaglianza di genere, come lo stato. La mancanza di un'adeguata educazione ed *empowerment* femminile sta portando la società contemporanea a ripiegarsi su posizioni tradizionaliste e conservatrici. L'ISIS si colloca fra le istituzioni che propugnano la sottomissione

della donna, tuttavia riesce a persuadere un numero considerevole di giovani donne istruite a partire per raggiungere le zone di guerra in modo da ritrovare uno stile di vita più consono e morale. Tali immigrate femminili sono sfruttate come strumento massiccio di propaganda a causa della loro presenza sui social networks. In tali piattaforme multimediali esse rimarcano l'importanza della donna nella realtà dello Stato Islamico e nella religione, dal momento che su di essa giace il gravoso compito di dare alla luce la successiva generazione di combattenti. Da un lato, troviamo quindi un'esaltazione del ruolo della donna come madre e moglie devota, presenza essenziale per lo sviluppo del Califfato, dall'altro si ha una dimensione parallela di sfruttamento sessuale delle minoranze religiose della regione che non trascurava lo sfruttamento infantile. È attestato da numerose testimonianze che le donne e le bambine Yazidi sono oggetto di una compravendita sessuale senza pari che sta assumendo sempre più i connotati della pulizia etnica. Per contrastare l'immaginario della femminilità sottomessa alcuni giornalisti hanno intervistato alcune guerrigliere curde che hanno deciso d'imbracciare le armi insieme agli uomini per difendere la propria libertà e contrastare le restrizioni dello Stato Islamico. Un altro esempio potente di contro-narrativa è altresì rappresentato da Malala Yousafzai, la più giovane vincitrice del Premio Nobel per la Pace la quale, grazie alla sua perseveranza e al suo impegno sta dimostrando al mondo intero quanto la forza di una singola donna possa essere fondamentale per contrastare la violenza terrorista.

La seconda dimensione in cui gli eccessi del patriarcato si mostrano in tutta la loro forza riguarda la violazione dei diritti umani avvenuta nella struttura detentiva di Guantánamo Bay a Cuba, la quale è divenuta la massima esemplificazione delle violazioni della Convenzione Internazionale contro la Tortura perpetrate in altre prigioni gestite dall'esercito americano. I detenuti di Guantánamo sono l'esempio vivente che dimostra come il governo americano, o meglio gli analisti politici e i militari incaricati d'eseguire il compito, decise in modo lucido e arbitrario di soprassedere alle convenzioni internazionali

riguardanti i diritti umani rivendicando la supremazia della sicurezza nazionale sopra ogni altro aspetto del diritto. L'installazione militare di Guantánamo s'è rivelata uno spazio di vuoto giuridico perfetto che potesse permettere loro di sfruttare l'incertezza delle convenzioni internazionali sul terrorismo. I presunti terroristi vennero definiti come *enemy combatants*, una categoria che di fatto non esiste tanto nel diritto di guerra quanto nella consuetudine del diritto internazionale, in modo che essi non potessero godere del diritto di *habeas corpus* normalmente assicurato tanto ai prigionieri di guerra quanto a qualsiasi detenuto criminale. In questo modo gli Stati Uniti hanno autorizzato la CIA e l'esercito di portare a termine illecite operazioni d'intelligence. Esse iniziavano con la pratica dell'*extraordinary rendition*, ovvero il trasferimento forzato del detenuto in un paese estero senza l'autorizzazione del governo locale oppure con la sua complicità illegale, e si concludevano con la reclusione nei differenti campi di Guantánamo, ove venivano fatti oggetto d'umiliazione e di torture, tanto fisiche quanto mentali, che li spogliavano della loro umanità. Agendo secondo vendetta e non secondo diritto e nel rispetto dei principi democratici, gli Stati Uniti hanno creato un pericoloso precedente che, al contempo, ha minato l'immagine della nazione come difensore degli ideali di libertà e giustizia.

Infine, il quarto capitolo s'apre con un approfondimento sul rispetto dei diritti umani, richiamando alla mente le numerose convenzioni che sono state siglate nel corso degli anni dalle maggiori potenze mondiali, tra cui vi è la più importante, ovvero la Dichiarazione Universale dei Diritti Umani. I diritti umani fondamentali non possono essere abrogati da nessuna potenza mondiale e in nessuna circostanza, solamente alcuni di essi possono essere limitati per un breve lasso di tempo e a causa di situazioni improrogabili e gravissime, in più le convenzioni solitamente hanno valore perentorio ed assoluto. Tuttavia, nella quasi totalità dei casi diritti improrogabili quali il diritto alla vita, il diritto alla libertà, il diritto all'integrità fisica e mentale ecc... non possono essere né volontariamente né involontariamente infranti o accantonati. Inoltre, una

società civile e democratica dovrebbe essere la prima a rispettare questi obblighi sanzionando, attraverso gli strumenti appositi, le condotte che violano la consuetudine internazionale. Pertanto, le azioni che le attualmente le potenze mondiali stanno attuando sulla scia dell'indignazione e della paura suscitate dagli attacchi di Parigi, quali la rinuncia della Francia all'applicazione della Convenzione Europea dei Diritti Umani con conseguente decisione di bombardare la Siria, appoggiata in seguito da Regno Unito e Germania, non dimostrano una corretta interpretazione dei valori democratici di cui si sono sempre fatte carico le potenze occidentali.

Di conseguenza, ciò su cui tale tesi vuole mettere l'accento riguarda l'errata rimilitarizzazione e potenziamento eccessivo ed arbitrario delle misure poliziesche, le quali aggravano ulteriormente la situazione di disagio sociale ed identitario contemporaneo. Il sentiero migliore da percorrere dovrebbe puntare sull'implementazione delle politiche d'integrazione, sull'applicazione effettiva delle politiche d'uguaglianza, ma soprattutto sulla salvaguardia e il potenziamento del settore educativo, poiché solamente una popolazione educata al rispetto della diversità e della molteplicità potrà permettere il raggiungimento degli obiettivi che sono stati posti da numerosi documenti di valenza tanto nazionale, come le Costituzioni, quanto internazionali, come la Carta delle Nazioni Unite e le dichiarazioni sui diritti umani.

## Introduction

Every epoch presents inherent aspects that permit to enlighten the direction the human race is giving to its own evolution. The Ancient Times, where the Greek and the Romans ruled, posed the bases for the modern philosophy, judicial system and languages; the Middle Age showed the rising of dark movements and emotions in the human being, with the preeminence of religious fights and the absolute authority of the sovereigns; the Modern Age permitted the development of the conception of individuality and the flourishing of multiple arts; the Contemporary Age permitted industrial and technological development that is still prosecuting, marking a significant development after the Second World War.

The 2000st century has been interested by one of the major global happenings in human history, the War on Terror which marked a change in the main contemporary military conceptions, legal assumptions and moral perspectives. It is a complex issue and the dedicated bibliography that have been published in the latest fifteen years it is surely overwhelming and diversified, reflecting the multiple approaches the academic sector has analyzed. Accordingly, the main aim of my dissertation is to confront the issue from a multi-disciplinary optic, focusing in particular in demonstrating how the errors made by the Western civilization concurred in transforming the actual concept of terrorism. I tried to marry together legal, psychological, social and cultural perspectives, since the essence of the contemporary society is formed by the mutual interactions between all those aspects. Moreover, I believe that the best mindset a student of International Relations should have while investigating a topic should be structured as an all-embracing method that could permit him or her to have a broadest views on the facts. I am not surely expecting to give a solution to the problem, because there are scholars, politicians and military personnel from around the world that are more

qualified than me and with more experience, but I want to try to give my contribution to the matter, as far as it concerns the future of our world.

In the first chapter, I will focus on the sociological and psychological aspect of the problem, ascertaining the uncertainties that dominate the globalized world and that are used to create certain types of social categories. In the second chapter I will scrutinize first the problem of the definition of terrorism in the international legal framework, then the position of terrorism under the International Criminal Law then, in the last part, I will concentrate on the phenomenon of the foreign fighters and their legal status, contextualizing them within ISIS organization. In the third chapter, I will approach the patriarchal problem through the study of women issue and the Guantánamo case, giving a first hint on the major problem of the respect of human rights and how the arrogance of some powers in deciding to ignore the judicial system could have worsen the worldwide situation. In the fourth chapter, I will deepen the problem of the human rights in the counter-terrorism domain; secondly I will update some new information on the evolution of the Islamic State and in the final part I will describe some practical examples of good cooperation between governmental forces, police and cultural communities, as I have personally experienced in my staying in Brighton and Hove, United Kingdom, that could combat the radicalization more efficiently than the military actions.

In conclusion, the underlying thought of all my dissertation states that the egotistical and hegemonic behavior of the global powers, combined with a significant failure in the implementation of effective integration policies, has contributed to the escalation in violence and racism in our last decade of the XXI century.

## 1.

### **The uncertainty of the contemporary society**

Nation states will remain the most powerful actors in world affairs.  
But the principal conflicts of global politics will occur between nations and groups  
of different civilizations.

Samuel P. Huntington, *The Clash of Civilizations?*

*Summary:* 1.1 The Negative Globalization; 1.2 Dehumanization, Authoritarianism and Clash of Civilizations; 1.3 The World of Terrorism; 1.4 Is it Terrorism a Mental Illness?; 1.5 Conclusions.

Nowadays, one of the main worries of the major world powers is to prevent the spread of radicalization to all aspects of social life. It is a multilevel complex procedure which affects both the terrorist groups and the civil society as a whole, like a never ending cycle. In this chapter I'll try to disentangle the psychological, philosophical and sociological traits that are contributing in confusing the issue. The attacks of the 9/11 marked the turning point in the essence of the Western preventive and security policies, since starting from that day the First World through the leading command of the United States set on fire a crusade against the Muslim World. This military campaign was called *The War on Terror* (WoT) by the American President George W. Bush on 20<sup>th</sup> September 2001. Starting from that moment, the Western countries took advantage of the aforementioned legally inconsistent expression to perpetrate constant violations of International Law, breaking, above all, a lot of international conventions on human rights. The War on Terror after almost

fifteen years from its beginning still did not devise its end and in 2015 the Senior US Defense Official Michael Sheehan told to the Congress that this kind of war would last for other ten or twenty years or more.<sup>1</sup>

International terrorism cannot be defeated solely by the use of force, since a better strengthening of proper worldwide social conventions, based on the respect of the diversity and of the basic needs of every human being would permit the establishment of a peaceful international order. In this general picture the democratic countries should be the firsts to embody and diffuse this message, not the ones that destroy cooperation and dialogue. So, firstly I will underline the role the globalization process had in the modification of the identity construction of the contemporary man, enumerating the negative aspects which caused him a constant state of anxiety and uncertainty. Secondly, I will cast light on the wrongful school of thoughts which led the Western society to distance from its very democratic heart in order to bring into being an antagonist figure responding to economic and political requirements. Finally, as a consequence of the previous considerations, I will present the characteristics of a perfect terrorist psychological profile, overturning the main stereotypes that the upper-middle classes actually hold towards this subject.

From now on, for the arguments' sake, when I will address to a generic human being I will use the conventional male person, but the contents can be applied also to all female imaginary, unless I tell differently.

## **1.1 The Negative Globalization**

It is essential to start the reflection with a little forethought on the concept of sovereignty,<sup>2</sup> which is to be considered a core structural point whenever the

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<sup>1</sup> A. K. Cronin, *The 'War on Terrorism': What Does it Mean to Win?*, Journal of Strategic Studies, DOI, Volume 39, George Mason University, Arlington, VA, USA, 29 November 2013, p. 5.

<sup>2</sup> Sovereignty is the supreme, absolute, and uncontrollable power by which an independent state is governed and from which all specific political powers are derived; the intentional independence of a state, combined with the right and power of regulating its internal affairs without foreign interference. It is the power of a state to do everything necessary to govern itself, such as making, executing, and

international order is discussed. As every scholar of international relations and political science surely would know, the modern geo-political order lays on the Westphalian Nation-State System created in 1648 after the Thirty Years' War. The central aspect of the Westphalian order was that every nation state had full sovereignty over its own territory and domestic affairs, according to the principle of the respect of one another's territorial integrity.<sup>3</sup> Then, back in those days, every sovereign had a direct control only over his conquered territories, he could not influence directly one of his equals. Nowadays, a state is considered sovereign under International Law if it pursues the three-dimensional legal theory possessing a territory, a population and a legitimate and effective government.<sup>4</sup> As the European States expanded their influence across the globe, the Westphalian principles became central to International Law and the prevailing world order.<sup>5</sup> At the time, the relationships between different populations were quite diverse from the contemporary economic, diplomatic and cultural ties bloomed in the last fifty decades, nonetheless a lot of proofs that demonstrate how also in the past an intercultural dialogue had prospered significantly. The human being is a rooted social animal, as Aristotle said, so he had always felt the thrust to melt with his kindred, what he changed are the modalities he uses. The globalization with its new advances modified the communication manners, increasing exponentially the volume of the cultural, linguistic and economic exchanges, that now circulate with an outstanding speed. The celerity of these new global ties has made some people to fear for their national identities, that are perceived to be demanded to change and to adapt to new aspects of life without even the conscience of the act.

After the Second World War the Allies decided to create some international organizations, like the United Nations, the International Monetary

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applying laws; imposing and collecting taxes; making war and peace; and forming treaties or engaging in commerce with foreign nations.

<sup>3</sup> C. Focarelli, *Diritto Internazionale I. Il sistema degli stati e i valori comuni dell'umanità*, 2 ed., Padova, CEDAM, 2012, p. 23.

<sup>4</sup> *Ibidem*.

<sup>5</sup> *Ibidem*.

Fund, the World Bank etc... and other regional bodies like the European Union, in order to guarantee a constant period of peace to the future generations through the aid of a global cooperation. Here-hence the weight of these institutes in the worldwide politics started to grow and a year after another they become more and more demanding and central to the enforcing of internal and foreign policies of every member state. All the nations that wanted to join these organizations had to renounce consciously to a part of their decision-making independence.<sup>6</sup> Simultaneously, they allowed a series of international legal documents (as multilateral and bilateral agreements, resolutions and framework decisions), to alter or enhance some consistent parts of their bodies of law. A massive Western-based democratization was progressing inexorably, taking over the old-fashioned governments of the world while exporting specific administrative frameworks and the neo-liberal economic system. We could consider this remodeling as a maiming of the state power as the economist Jacques Attali sustained.<sup>7</sup> He wrote that this developing order ripped the governments of the capability to plan freely and unconditionally their home policies.<sup>8</sup> At the present time, every single state is responsible for its actions in front of the global community, which has the authority to judge and to sanction an International Lawbreaker state thanks to the presence of the United Nations and other international bodies. The academic world split over this vision as some scholars were in favor, envisioning in that a possible evolution of the world politics, and others were against and wanted to return to a full past sovereignty. What could be the best solution for the global community? Should

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<sup>6</sup> This sentence does not acknowledge the international organizations to have a coercive power on the Member States, as soon as the MS retain the greatest amount of their sovereignty. UN Secretary General Ban Ki-Moon stated on 23th February 2015 in the 7389<sup>th</sup> Security Council meeting that "sovereignty remains a bedrock of international order", but he added that today it is viewed as a wall or a shield (Prospects for Protecting People Improve When Sovereignty Not Viewed as 'Wall or Shield', Secretary-General Tells Security Council in Ministerial Debate, 23 February 2015, <http://www.un.org/press/en/2015/sc11793.doc.htm>). The idea I had in mind referred precisely to that, that is the sovereign states freely decided to start to demolish their most conservatives reservations and agreed on recoil in front of major international concerns related to peace and mutual prosperity.

<sup>7</sup> Z. Bauman, *Il demone della paura*, Roma, Editori Laterza, 2014, p. 5.

<sup>8</sup> *Ibidem*.

we return to the past to guarantee a most effective autonomy to the single nation-states? One of the most important economic professors and winner of the economic Nobel price Amartya Sen stated that it is not possible anymore to watch the world from a limited horizon, because we are no longer closed in a small cocoon.<sup>9</sup> On the contrary, we are part of a global network where every single country decision can influence the everyday life of the citizens of another nation.<sup>10</sup>

Surely, the globalization is a complex phenomenon with its pros and cons which has changed inexorably the general life conceptions. Zygmunt Bauman, one of the most famous philosophers and sociologists of our times, has conceptualized the theory of the negative globalization which constitutes the main foundation of his book *Liquid Fear*. He underlines that the globalization process tends, sometimes, to annihilate the peculiarities of the different cultures with the secret intent to reach a global harmony throughout the imposition of an extensive homogenization.<sup>11</sup> This putative uniformity, that was assumed to alter only some aspects of the social human construction, was expected to produce a prevailing climate of mutual cooperation. Unfortunately, because of the misinterpretation of this general idea, a new wave of nationalistic feelings, radical behavior, chauvinism, fascism and terrorist ideologies have spread through the world.<sup>12</sup> According to this view we could depict the globalization as a rapacious parasite which feeds itself through the benefits the nation-state concedes to its citizens.<sup>13</sup> Consequently, the internationalization process has no longer been perceived as a free choice, but something imposed by an external and unknown power. At this point the human being started to feel uncomfortable in this new world order he has never choose and that he does not fully understand. This sensation of uncertainty, provoked by this lack of control, increases when the governing institutions of a country demonstrate

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<sup>9</sup> A. Sen, *L'idea di giustizia*, Milano, Arnoldo Mondadori Editore S.p.A, 2011, p. 139-140.

<sup>10</sup> *Ibidem*.

<sup>11</sup> Z. Bauman, *Paura Liquida*, Roma-Bari, Editori Laterza, 2009, p. 120-121

<sup>12</sup> *Ibidem*.

<sup>13</sup> *Ivi*, p. 182.

themselves incapable of explaining to its residents how they should act properly to really feel an active and protected part of the new society. Ergo, the rulers started to be seen as detached and careless, and the general feeling of protection that was guaranteed to the single by the politicians starts to fade and the general public feel compelled to rely on private agents to seek its own safety.<sup>14</sup> Moreover, the negative propaganda that is made by some politicians and political activists against the idea of the globalized world order, influence the perception of the citizens towards the slight sovereignty transfer to the international organization, depicting the State as an inefficient and puppet institution.<sup>15</sup> The citizens start to feel unsafe in his own native land and when unfamiliar elements start to show up the situation worsen.

Furthermore, Bauman unveiled that we live in a society of the risk where the population presumes that every single danger should be detected and eliminated in advance.<sup>16</sup> It is a marketing stratagem used both to deflect the attention of the public from other more dangerous problems and to permit to the private sector to enrich itself.<sup>17</sup> The principal actor that permits the progression of this schema is the feeling of fear.<sup>18</sup> This fear is unknown, vague and changeable nourished by our ignorance and hesitation with no possibility to be eradicated and it is present in our everyday life.<sup>19</sup> In his opinion there are three main types of dangers we fear the most: the ones that endanger the body, the ones that undermine the social order and the ones that could change the social status of the single within the general group.<sup>20</sup> We may be consciously more aware of the first one, since we are directly exposed to danger and to potential physical pain. Unwittingly, as a second thought we start to fear every changes which could compromise our position in the world order. When there

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<sup>14</sup> *Ibidem.*

<sup>15</sup> *Ibidem.*

<sup>16</sup> *Ivi*, p. 5.

<sup>17</sup> *Ibidem.*

<sup>18</sup> *Ivi*, p. 4.

<sup>19</sup> *Ibidem.*

<sup>20</sup> *Ivi*, p. 6.

are some epoch-making changes in the general social order, it is possible to detect the presence of all these three items that work together to provoke a general psychological confusion which reveal a general identity loss. When the human being suffers from a deprivation of his well-being he tries to contrast the feeling of uneasiness developing some defensive mechanisms like mixophobia and xenophobia. Usually, the politicians are well aware of these facts and they could misuse their power to achieve their political and personal interests and sometimes a prospected good politics could only be a specious masks to commit the most horrible actions.<sup>21</sup>

The psychoanalyst Erich Fromm in his famous book *Escape from Freedom* scrutinized the complex features the person uses to strengthen himself. Surely, it is easy to prove that any human behavior is only a byproduct of a social circular process the same humans put together.<sup>22</sup> The purpose of the science of social psychology is to demonstrate effectively that the individual is not only a passive presence in the social construction but, on the contrary he should perceive himself as an active shaper of the society.<sup>23</sup>

However, the average contemporary man occasionally forgets to possess this creative power, because the main institutional structures want him to be inert, so he decides unconsciously to submit to an imposed conventional order.<sup>24</sup> He practices a sort of dynamic adjustment, as Fromm calls it, accepting to change his attitude to reproduce the social customs he is supposed to represent.<sup>25</sup> Since he does not really want to change he will start to cultivate a new set of negative feelings like frustration, intolerance and cruelty which will lie in his subconscious, waiting to manifest in a later moment.<sup>26</sup> Nevertheless, there are some distinguishing marks of the human nature that

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<sup>21</sup> D. Runciman, *Politica*, Prima Edizione Ottobre 2015, Traduzione di Gadi Luzzato Voghera, Bollari Boringhieri Editore, Torino, 2015, p. 23.

<sup>22</sup> E. Fromm, *Fuga dalla libertà*, I edizione Oscar Saggi, Milano, Arnoldo Mondadori Editore, 1994, p. 13.

<sup>23</sup> *Ivi*, p. 14.

<sup>24</sup> *Ibidem*.

<sup>25</sup> *Ivi*, p. 15-16.

<sup>26</sup> *Ibidem*.

could not be molded since they are part of the physiological needs of the individual.<sup>27</sup> When there is an impossibility to satisfy these needs, the level of tolerance lowers and the instinct of self-preservation become compelling.<sup>28</sup> This is the moment where all the negative feelings the single has harbored in his spirit sum up with the instinct of self-preservation and he becomes hostile and selfish.<sup>29</sup> So, to sum up, the contemporary man has been thrown in a world where he has no reference point but the society still expect from him to respect a social order he does not understand anymore and, since he cannot figure out the role the society wants him to play, he feels frustrated. In addition, with the new world democratic order, he has also earned the possibility to use his own free-will to make choices. However, the free-will comes with personal responsibility and, in a world where even the bureaucrats seek excuses to unburden their consciences, the single citizen does not want to be blamed for his own errors. He prefers to cede this burden to a superior entity, in order to be part of the general mass. The human being cannot bear to be excluded or separate from his similar, so he would rather prefer to submit to a greater hierarchical entity, dismissing the burden of freedom to be part of a stronger and more numerous group. Nonetheless, when he succumbs to someone he stops the progressing of the individualization process, altering the growth of his ego,<sup>30</sup> starting to feel powerless. At this point he will seek comfort in some escape mechanisms pinpointed by Fromm.<sup>31</sup>

Thanks to this confusion, provoked by the incapability of the political order to assure him a safe identity in a safe place, he starts to fear the cultural polyphony and polychromy of the urban surroundings.<sup>32</sup> Then, he builds a mixophobic environment where he carves out for himself a little isolated space dominated by akin people, a sort of community of identical which has the task

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<sup>27</sup> *Ivi*, p. 17.

<sup>28</sup> *Ibidem*.

<sup>29</sup> *Ibidem*.

<sup>30</sup> *Ivi*, p. 29.

<sup>31</sup> *Ibidem*.

<sup>32</sup> Bauman, *Il demone della paura*, op. cit., p. 35.

to defend his distinctiveness.<sup>33</sup> According to the social identity theory, the individual define himself with a group that share something in common with it in contrast with the other outside of it.<sup>34</sup> The nationality and the ethnicity in this view are meaningful only as labelled connections between people.<sup>35</sup> He tries to fortify this identity construction multiplying the frequency, the intensity and the range of the social ties and behavior.<sup>36</sup> The next inevitable step is embodied by the spread of xenophobic ideas which stigmatize the perception of the Other.<sup>37</sup> Another point of view, that enriches the above mentioned statements of Fromm, is the one of the sociologist Richard Sennet who attributes this attitude to the inclination of the human being to avoid a deep self-analysis and a compromise that could reduce his well-being through the interactions with other individuals.<sup>38</sup> Thence, the absence of a mutual intercommunication between human beings with different backgrounds and cultures generates a vicious cycle where the dialogue is deprived of its role and it is replaced by violence and mutual incomprehension.<sup>39</sup>

This concept is essential to understand one of the social roots of the inefficiency of the international counter-terrorism policies and of the consequent proliferation of hate crimes against Muslims. There are some researchers like Michael Maecher who denounced that sometimes the governments who struggle against the terrorist organizations have not a real interest in exploring the real causes of these conflicts that take place in their territories.<sup>40</sup> The factor that could change genuinely the disruptive tendency is the politics, since it embodies the instrument used by the politicians to address

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<sup>33</sup> *Ivi*, p. 36

<sup>34</sup> *Ibidem*.

<sup>35</sup> D. Malet, *Why we fight elsewhere?*, in *Foreign Fighters. Transnational Identity in Civic Conflicts*, Oxford University Press, University Press Scholarship Online, Oxford, 2013, p. 6.

<sup>36</sup> *Ibidem*.

<sup>37</sup> *Ibidem*.

<sup>38</sup> Bauman, *op. cit.*, p. 35.

<sup>39</sup> *Ibidem*.

<sup>40</sup> *Ivi*, p. 12.

collective choices,<sup>41</sup> driving the collective imaginary and giving to the citizen the possibility to choose their paths.<sup>42</sup> If politics was not present in the creation of the social environment every form of government could not be possible. The politics could drive the destiny of a nation both to disruption or to prosperity.<sup>43</sup>

## **1.2 Dehumanization, Authoritarianism and Clash of Civilizations**

For the moment it is compelling to go back to the escape mechanisms devised by Fromm, because they're useful to understand the fragility of the human being and the consequent developing of the rejection mechanisms which are the fundamental base of the new terrorists initiation. One of the first escape mechanisms is the renounce to the feeling of independence in order to obtain a greater self-confidence in virtue of the choosing of conformism.<sup>44</sup> This option usually lead to the breakthrough of a dangerous authoritarian atmosphere where two principal compartments show off, the masochist temper and the sadistic attitude. The masochist is someone who really fits the role of the modern fragile man since, it represents a person who cannot tolerate to feel inadequate and lonely.<sup>45</sup> So, he will get rid of his ego to lessen himself, on purpose or unconsciously, and he will be rewarded by a sudden feeling of relief while delivering himself to the authority.<sup>46</sup> In doing this the masochist will acquire a new pride and a new position in the power structure removing himself from the massive burden of the decision-making mechanism.<sup>47</sup> Thanks to this bandwagoning, he could act without being worried about the consequences of his actions, since it is not him who takes the decisions.<sup>48</sup>

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<sup>41</sup> Runciman, op. cit., p. 15.

<sup>42</sup> *Ibidem.*

<sup>43</sup> *Ivi*, p. 12.

<sup>44</sup> Fromm, op. cit., p. 124.

<sup>45</sup> *Ivi*, p. 135.

<sup>46</sup> *Ibidem.*

<sup>47</sup> *Ibidem.*

<sup>48</sup> *Ibidem.*

Wherever there is a masochist almost surely we can find his counterpart, the sadist, a person who's dominated by a desperate thirst to command another human being in order to feel more powerful and silence his own weaknesses.<sup>49</sup> There are three main sadistic tendencies. The first one is the desire to submit totally the others to gain an unlimited power over them.<sup>50</sup> The second will add to the first the need to mistreat the opponent to swallow all the energies and the skills he has and make them his own.<sup>51</sup> The third tendency rests on the desire to make the others suffer, to feed on their mental or physical pain.<sup>52</sup>

These two behaviors are the two sides of the same medal: the uncertainty provoked by the loss of identity of the contemporary society. Using a metaphor, the governments and the controlling chiefs of the terrorist organizations could be considered the sadists as the general mass embodies the masochists. If these two parts are the products of a general tendency, who's the brain which is behind the origin of this apparatus? The answer is the globalization process, which provoked the lack of certainties and that has now become an uncontrolled proceeding. The heart of the politics is settled on the control of violence.<sup>53</sup> Not all politics resort to violence since activities like the debate, the agreements and the argumentations are mostly peaceful.<sup>54</sup> However, sometimes the political control could be exercised through the use of coercive violence that originates a relation between a State and a citizen based on obedience and submission.<sup>55</sup> In other cases, the violence is only a pressuring element, in other words, the population would act according to the law because of the menaces of punishment it would experience if it does not act accordingly.<sup>56</sup> The politics should harmonize the interactions between the public and the coercion, posing

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<sup>49</sup> *Ivi*, p. 125.

<sup>50</sup> *Ibidem*.

<sup>51</sup> *Ibidem*.

<sup>52</sup> *Ibidem*.

<sup>53</sup> Runciman, *op. cit.*, p. 19.

<sup>54</sup> *Ibidem*.

<sup>55</sup> *Ivi*, p. 20.

<sup>56</sup> *Ibidem*.

a general agreement on the correct use of force.<sup>57</sup> The politics in itself does not make the difference, but it could create the right space and material benefits for all.<sup>58</sup> Sometimes, when the political and public actors fail in coordinating this dialogue they try to conceive their inability with wrong choices. For instance, one of the strategies they could use passes through the generation of a scapegoat.

What is a scapegoat? Ordinarily it is a single, a group or a concept that's exploited as the catalyst of the negative events of a particular period.<sup>59</sup> The scapegoat strategy is not a contemporary invention, it is old like the world itself but through the centuries it has taken different forms. In fact, there have always been minority groups who have suffered from the violations of the majority because of their particular ethnical, cultural, or social nuances. Nowadays, the Muslim Community is the chosen subject of this stigmatization. The normal citizens pay attention to the length of the beards and to the nuances of the skins, because they fear to meet one to one a possible Taliban. It would be risky to assert we are experiencing a new wave of totalitarianism, because it would be theoretically incorrect. However, it is possible to detect some recurring elements in the actual universal attitude that reminds of the early stages of the Nazi raise to power. If we think about it, the Thirties have been one of the most famous periods of massive moral transformation of all times. The operations accomplished by the Nazi bureaucracy was not perceived by the general amount of the population as immoral.<sup>60</sup> On the contrary, the majority of German people believed they were acting for the good of their nation.

Envisioning the contemporary increasing in the percentage of hate crimes, it should be compelling to recall the intuitions of the philosopher Hannah Arendt, who scrutinized the Eichmann case and the roots of the totalitarian regime. One of the most significant proceedings that have been used massively

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<sup>57</sup> *Ivi*, p. 20.

<sup>58</sup> *Ivi*, p. 33-34.

<sup>59</sup> Fromm, *op. cit.*, p. 66.

<sup>60</sup> H. Arendt, *La banalità del male*, 18 ed., Saggi Universale Economica, Milano, Giangiacomo Feltrinelli, 2011, p. 33.

during the Nazi period, and which is coming back recently with the same strength is the dehumanization of the victim. Surely, this dehumanization usually can have two functions.

From one point of view, it works as a perfect silencer of the perpetrators consciences, permitting them to follow the orders without questioning them.<sup>61</sup> From another point of view, dehumanizing the victim permits to eliminate more easily its individuality, thus the sufferer will no longer be treated as a human but as a thing and he will not oppose to his executioners.<sup>62</sup> The Muslim terrorists embody both the victim and the oppressor, since they suppress who do not respect their beliefs, but at the same time, most of them suffer from the stigmatization the Western society has put on them. Why we should consider them victims? First of all, if a number of them chose to be lured in these organizations it is also because of the failing policies of the democratic countries. Moreover, during the last fifty years some Western powers like the United States, the Soviet Union and the United Kingdoms armed, in different times, different military groups for the sake of the Western interests in a particular region. Secondly, the military intervention perpetrated in those areas to drive out the terrorists resulted in massive killings of innocent people. This brutality from the part of the Western countries demonstrated a tremendous carelessness towards the civil population. Furthermore, a lot of non-combatants have been convicted as suspected terrorists without any material proof. In a normal legal system they would be considered innocents till the facts could demonstrate otherwise, but in this case they had no possibility to appeal to justice. Finally, the misperception of the nature of the Islamic religion which has been spread by the means of communication, led the Arab Community to be excluded from the civil societies they lived in other parts of the world, because they are now being considered as ravaging beasts who want to impose *sharia* laws on all the infidels.

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<sup>61</sup> Arendt, op. cit., p. 57.

<sup>62</sup> *Ivi*, pg 132.

In this picture there are some details which evoke the fraud of the *Protocols of the Learned Elders of Zion*, published for the first time in 1903. This document was exploited by the Nazi propaganda to discredit the Jewish population through the construction of a false image. Their goal was to distance the Jewish from the rest of the human beings, so they stripped this populace of its humanity. Afterwards, they teared apart their personality to make them submissive and incapable of contrasting the orders of the military.<sup>63</sup> Thanks to these dehumanizing strategies the Germans saw the actions of the Nazi administration as legitimate and only a few of them rebelled against it. Similarly, the Western Alliance against Terrorism was aimed at submitting the Muslim World to exploit its resources, so they orchestrated a massive misinformation campaign to build their legitimacy in the eyes of the general public and acted as they were trying to export the democratic values abroad.

The Arab world, despite the fact that is divided between different ethnic groups, has always been a civilization with a strong identity. Even during the Crusades they struggled against the Christianity from a strong position, and they were even respected as equal enemies. They share with the Europeans the hegemonic attempts to dominate an imperial territory and then they lost it exactly as the Westerns.<sup>64</sup> So, between the Eastern and Western cultures in the past there had been different ideological arms wrestling to see who would be the dominant. In this situation, Amartya Sen's idea of mutual cooperation is something unthinkable or it is better saying that it is a philosophy that cannot harmonize with the ancient hegemonic conception<sup>65</sup> of the international order.

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<sup>63</sup> Arendt, op. cit., p. 20.

<sup>64</sup> It is not a case that one of the claims of the Islamic State is to reconquer the Western World and in particular Al-Andalus, the Iberian Peninsula, that was conquered on 733 b. C. and was then taken back by the Catholic Monarchs in 1492 after the siege of Granada against Abu'abd Allah Muhammed XII, also known as Boabdil.

<sup>65</sup> Hegemony is the dominance of one group over another, often supported by legitimating norms and ideas. The term *hegemony* is today often used as shorthand to describe the relatively dominant position of a particular set of ideas and their associated tendency to become commonsensical and intuitive, thereby inhibiting the dissemination or even the articulation of alternative ideas. The associated term *hegemon* is used to identify the actor, group, class, or state that exercises hegemonic power or that is responsible for the dissemination of hegemonic ideas.

An hegemonic society requests the emergence of a particular dominant figure which has the absolute power to predominate above all the other nation-states. Usually, this hegemonic power has the greatest army and the most coercive economic and political power in the world. For instance, the United States were considered the hegemonic cornerstone of the XX century.

Samuel P. Huntington, an American political analyst and counselor of the administration of President Jimmy Carter, in 1993 wrote an article entitled "*The clash of civilizations?*" for the review *Foreign Affairs*, where he predicted that the next world war would be instigated by civilizations conflicts instead of economic and political interests.<sup>66</sup> Some of his ideas could be questionable and maybe wrongful but we should dwell critically on one of the points of his reflection. He asserted that after the Cold War was impossible to divide the World according to the classical definition of First, Second and Third World, instead it should be defined in terms of different cultures and civilizations.<sup>67</sup> Setting aside a second the subtle aftertaste of colonialism that this conception maintains, we cannot deny that today a clash between the different regions of the world is perceived to be solid thanks to the massive propaganda of the media communication channels. Huntington wrote that the differences between cultures are basic to their mutual interaction, because they permit to different people to feel stronger their distinctiveness.<sup>68</sup> Even if this conception could not always lead to a fight, he asserted that surely these dissimilarities could help the fortification of the identity of the single.<sup>69</sup> In addition to that, inasmuch as the economic and social globalization have separated people from their longstanding identities, they choose to embrace a fundamentalist way of living based on their own cultural tradition just to stand straight in the face of the

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<sup>66</sup> S. Huntington, *The Clash of Civilizations?*, in *Foreign Affairs*, Volume 72, No.3, 1993, p. 39. [http://www.hks.harvard.edu/fs/pnorris/ Acrobat/Huntington\\_Clash.pdf](http://www.hks.harvard.edu/fs/pnorris/ Acrobat/Huntington_Clash.pdf). Online access: 07/12/2015. After that article he expanded his thesis in a 1996 book *The Clash of Civilizations and the Remaking of World Order*.

<sup>67</sup> *Ibidem*.

<sup>68</sup> *Ivi*, p. 25.

<sup>69</sup> *Ibidem*.

blowing of the globalized world.<sup>70</sup> In this picture the West stands in an ambiguous position, since it is both a source of power and a shaper of the modern worldwide hierarchical structure but, at the same time, it spreads a message of failure.<sup>71</sup> The democratic values have been exported in the wrong way and they have not been effective, as the socialist and nationalist regimes have demonstrated.<sup>72</sup> Furthermore, Huntington found himself in agreement with the statement of Fromm on the regards of the most basic instincts of the human being, since in his vision the cultural features should be considered as one of the aspects of the human being less exposed to the due to the fact they are so settled in the most unconscious part of the brain.<sup>73</sup> So, because of this heritage, the different conceptions concerning culture and religion influence the way the individual discuss over policy issues, even when it comes to human rights or legal definitions.<sup>74</sup> In some ways, these ideas could be true, but as Sen sustained, all the societies in different periods have formulated similar theories, which were used also by others.<sup>75</sup> This demonstrate that the humanity basically share the same primordial needs and beliefs.

The second part of the XIX century, however, has been dominated by a new type of patriarchal Westernized feeling of superiority. Sen has been one of the first to openly admit it, the Western chief of state still thought that they need to export democracy to the uncivilized countries because they were incapable of rational thoughts. But, what is a democracy? To fully understand the potential of the democratic message is the key to the solution of some global conflicts. On the other hand, it is not a perfect ideal, and it is always open to abuses. Ted Honderich, Professor of the Philosophy of Mind and Logic at the University College London, conceives democracy as “a practice in which the people choose

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<sup>70</sup> *Ivi*, p. 26.

<sup>71</sup> *Ibidem*.

<sup>72</sup> *Ibidem*.

<sup>73</sup> *Ivi*, p. 29.

<sup>74</sup> *Ibidem*.

<sup>75</sup> A. Sen, *La democrazia degli altri. Perché la libertà non è un'invenzione dell'Occidente*, I edizione Saggi, Arnoldo Mondadori Editore S.p.A, Milano, 2004, p. 39.

and then influence those who do govern the nation and direct its relations of war and peace.”<sup>76</sup> During the elections the population is free to choose its candidates in an uncoerced and uninfluential manner (at least formally).<sup>77</sup> Every citizen in a democratic country could experience a sort of approximate equality, in other words not each citizen can exercise the same influence on the democratic process but they could have a tolerable amount of power.<sup>78</sup> Through the affirmative representation, the citizens could try to influence the core political heart of the government.<sup>79</sup> Moreover, a country could call itself democratic if it embodies some specific values, attitudes and practices. It has to give importance to power and civic responsibilities, to the principle of majority rule, to the respect of human rights and of civil liberties, to the freedom of speech and religion, to the right to an equal process under the law, to the tolerance for the diversity, to the idea of cooperation and compromise, to the presence of a Constitution and to the enforcement of the law through the traditional division between the legislative, the executive and the judicial powers. The democratic nature of our governments relies on these fundamental moral principles, which condemned some particular actions, in particular the irrationality of violence.<sup>80</sup> Contrarily to our old believing, these values have been conceptualized in different ages also outside of the Western world. As Sen fairly puts it, it is correct to state that the Western powers have shaped the up-to-date concept of modern democracy, but even in the Indian history is possible to bump into political expressions that are similar to the modern democratic ones.<sup>81</sup> For example, the XVI century Indian Emperor Moghul Akbar built a kingdom based on religious plurality, tolerance of secularism and division between the State and the Church, while in Europe the Inquisition was burning heretical

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<sup>76</sup> T. Honderich, *Terrorism for Humanity. Inquiries in Political Philosophy.*, 2003 revised Edition, Pluto Press, London, 2003, p. 149.

<sup>77</sup> *Ivi*, p. 150.

<sup>78</sup> *Ivi*, p. 151.

<sup>79</sup> *Ivi*, p. 152.

<sup>80</sup> *Ivi*, p. 18.

<sup>81</sup> Sen, *L'idea di Giustizia*, op.cit., p. 51.

figures like Giordano Bruno.<sup>82</sup> Akbar, who was actually a practicing Muslim, believed that a just society should be based on the principle of rationality to permit to the population to behave correctly and accordingly to the respect for the akin.<sup>83</sup> Moreover, religiously speaking, he was in favor of the development of a critical thinking towards the traditions that every observant inherits from the past generations.<sup>84</sup>

This clarification is useful to demonstrate that not all the Muslims are radicals who want to impose their religion. In his most famous book, *The Idea of Justice*, Sen advocates the spread of equality between the Western and the Eastern world. The modern democracy should not be driven by irrationality and prejudice while weaving partnerships with the international community. The correct attitude should stand for the constant recourse to dialogue and mutual understanding.<sup>85</sup> Since we are living in an interdependent world, it is important to recognize that no civilization is really distant and isolated from the rest of the world, because the human kind is more connected than we might think. As Western children we need to put an end to the embezzlement of this Western conceived democratic values, and we should concentrate on remodeling the democratic theory on the ancient Greek concept of public discussion.<sup>86</sup> Using this methodology we could be able to recognize the common origins of our kind and we will envision together the putting in force of powerful cooperating policies which will not exploit a part of the world. Otherwise, if we aren't able to realize the fantasy of a global peace envisioned in the aftermath of the Second World War, all the efforts made in the last century will be worthless. It is essential to overcome this clash of civilizations that has continued through the ages both at a micro-level with adjacent groups in a particular geographical area struggling for the domain over a territory and

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<sup>82</sup> *Ibidem*.

<sup>83</sup> *Ibidem*.

<sup>84</sup> *Ivi*, p. 52.

<sup>85</sup> Sen, *La democrazia degli altri*, op. cit., p. 39-40.

<sup>86</sup> *Ibidem*.

at a macro-level where states from different civilizations compete for relative military and economic power.<sup>87</sup>

### 1.3 The World of Terrorism

It is obvious to state that almost every aspect of the life of the human beings is linked to many psychological mechanisms which lead to a precise sociological realm. Why should the terrorist world be different?

First of all, it is compelling to clarify that terrorism has always been used as a political strategy in order to attempt to reach a political or social goal, through the use or the threat of using violence.<sup>88</sup> In other words, as professor John Horgan remarked, terrorism is a tool that is used to accomplish a particular purpose.<sup>89</sup> The terrorist practices are strongly condemned by many because they are thought to be undemocratic,<sup>90</sup> and morally questionable.<sup>91</sup> Actually, contrary to the vision the media give us, the use of terrorist approaches as forcible and convincing weapons is not a contemporary invention. Indeed, all along history both rebel groups and states exploited terror for their own business. The firsts because they were making every effort to change the constitutional order in their favor. The seconds because they were in need of suppressing the dissent of the population or because they were conquering a different state. Moreover, the recourse to this type of stratagem wasn't typical of a particular country or civilization. There is no racial type who is more inclined towards savagery than another one.<sup>92</sup> Usually, in every type of conflict, we are in the habit of focusing only on the situation of two main parties. On the one side we have the nation or the institution which is under attack and it is struggling against an illegitimate organization through the use of legitimate

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<sup>87</sup> Huntington, op. cit., p. 29.

<sup>88</sup> J. Horgan, *The psychology of Terrorism*, Revised and Updated Second Edition, Routledge Taylor & Francis Group, London and New York, 2014, p. 11.

<sup>89</sup> *Ibidem*.

<sup>90</sup> Honderich, op. cit., p. 149.

<sup>91</sup> *Ivi*, p. 15.

<sup>92</sup> Runciman, op. cit., 26.

means. On the other side, there are the victims who are suffering from the military damages provoked by the two opposing forces.

Most of the time the perspectives of the exponents of the rebel group are deliberately ignored. This is a major error because all the actors contribute to the composition of the general picture and to the development of the perception of terrorism. This carelessness is revealed in the preventive measures the countries of the Coalition against Terrorism created to solve the issue. Normally, the security measures that a country uses to protect its citizens are implemented on two different but interrelated governmental domains, the internal policies and the foreign policies. As concerning the second branch, that the so considered progressive countries are mostly dominated by a sort of arrogance towards the non-westernized ones, so they act in a paternalistic way towards them. A further perspective states that while exploiting this cultural perception to intervene, apparently in good faith to help these populations to leave behind their barbarity, they compromise the entire plan in its essence at different levels. In fact, the local population will perceive the military forces as aggressors, and they will not support voluntarily their military efforts.<sup>93</sup> Otherwise the soldier, who has been put on the coercive side of the shotgun, will misunderstand the hostility of the locals, because he wasn't taught the right mindset to understand a different way of living, so he will see them as opponents and he will moderate his own behavior accordingly. Internally speaking, the weakest link is formed by the incapability of the political parties to launch an effective inclusive immigration program. In other words, when a government is failing in permitting to both the minorities and the foreign citizens to feel integrated in a new society, it leaves space to dissatisfaction to grow stronger and stronger. If the government does not change its behavior in a short period of time, the growing disappointment will head to protests and possible violent reactions. In the most extreme cases it could lead to the organization of terrorist groups formed by desperate people who believe the

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<sup>93</sup> Horgan, op. cit., p. 91.

use of violence has become the only inevitable response to have their demands accepted by the politicians.<sup>94</sup>

Professor Nehemia Friedland, psychologist at the Tel Aviv University, confirmed this view when he declared that the minorities groups or, more broadly, every person who is in a situation of deprivation, turn to violence because the State failed in resolving their grievances, so they had no other solution left to change their disadvantaged and unprivileged status.<sup>95</sup> Why do they resort to violence when they could plead the authorities through legitimate legal instruments? Well, normally they are stuck in an isolated space where they are looked down by the rest of the upper-middle class society, especially in those countries where a strong caste division still exists.<sup>96</sup> They are treated as they were irrelevant for the broadest society so, to make the others pay attention to them, they need to pour out their frustration. Indeed according to the Frustration-Aggression Hypothesis (FAH), an aggressive reaction is considered better than the absence of one.<sup>97</sup> When the democratic states collapse under their own passiveness, they could not be able to give to the minority groups an alternative to violence.<sup>98</sup> Sometimes, some political violence could be justified on a moral ground when they serve to enlarge freedom and equality, embodying a "terrorism for humanity",<sup>99</sup> or "democratic terrorism".<sup>100</sup>

Going back to the terrorist problem we could ask to ourselves: what is the point in criticizing the internal and the foreign policies of a country towards the immigrants and the minorities if we are speaking of terrorists who are based in another country with a different culture? How these considerations could really help us in winning this ideological war? I will give one quick example of how the actions of the Western countries can effectively affect the recruitment of new

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<sup>94</sup> *Ibidem.*

<sup>95</sup> *Ivi*, p. 55.

<sup>96</sup> *Ibidem.*

<sup>97</sup> *Ibidem.*

<sup>98</sup> Honderich, *op. cit.*, p. 158.

<sup>99</sup> *Ivi*, p. 165.

<sup>100</sup> *Ivi*, p. 168.

terrorists. I'm talking about the Guantánamo legacy in this particular case but, this reasoning could be applied also to the problem of the foreign fighters who are troubling the current public opinion. Mohamed Siddiq Khan was one of the perpetrators of the attack at the London underground in 2006, and in his video testament he stressed out that his compelling reason to carry out the act was related to the abuses the Western society was perpetrating against the Muslims. He added that he and his companions would stop only when powers like the US or the UK would put an end to the gassing, the bombing, the imprisoning and the torturing of their people.<sup>101</sup> This last example permit to introduce the second part is related to the psychology of terrorism.

#### **1.4 Is it Terrorism a Mental Illness?**

First of all, in clinical terms terror refers to a psychological state of dread or fearfulness associated with an abnormally high level of psycho-physiological arousal.<sup>102</sup> If we bear in mind this premise, it sounds logical that the main aim of a terrorist group is to generate a state of panic and uncertainty. When the mass is scared by something unknown and it feels unsafe, the most natural reaction is to try to push the government to reduce the level of violence. In order to accomplish this task the terrorist group regularly exploits the weaknesses of the State, cracking the system thanks to a general environment of complacency, ineffective intelligence sharing between the countries of the Coalition and poor security in general.<sup>103</sup>

Psychologically speaking a great problem is linked to the misperception of the characteristics that distinguish the single terrorist. In the Seventies the common assumption of the scholars was to consider the terrorist as clinically abnormal.<sup>104</sup> The terrorists were labelled as individuals who suffered from a

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<sup>101</sup> Horgan, op. cit., p. 22.

<sup>102</sup> *Ibidem.*

<sup>103</sup> *Ibidem.*

<sup>104</sup> *Ivi*, p. 48.

psychological disorder or distress which provoked in them a debilitating condition.<sup>105</sup> Horgan, in his book *The psychology of terrorism* wrote that from a clinical point of view “the psychopath is a person whose behavior is marked by specific and consistently observed trait behaviors, but perhaps typified at the broadest possible level by an unwillingness to conform to social or communal norms. [...] Of interest to analogies with terrorism are the psychopath’s lack of remorse or guilt for his or her activities and an egotistical worldview incompatible with the ability to feel any genuine concern for the welfare of others.”<sup>106</sup> Basically, the terrorist was seen as a psychopath on the fact of his lack of empathy, so he is not able to understand that his deviating behavior could produce harm or suffering to an equal. Nonetheless, is the terrorist really a psychopath? Is he someone who is mentally ill behind any possibility of being cured? Furthermore, is the psychiatric treatment the real solution to put an end to terrorist attacks? It is hard to believe that and, in this sense, I’d like to report an extract of Schmid that will be useful to meditate upon these questions. He specified that “the immediate human targets of violence are generally chosen randomly (targets of opportunity) or selectively (representative or symbolic targets) from a target population, and serve as message generators. Threat-and-violence-based communication processes [...] are used to manipulate the main target.”<sup>107</sup> According to this quotation the targets mean nothing to the attackers because they are just a symbolic strike that represent something different. So, the selection of particular victims, in great part civilians, are not the result of a mental illness.<sup>108</sup>

On the contrary, since terrorism is a political strategy, the murdering of other human beings is a precise strategical choice.<sup>109</sup> It will be correct to say that

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<sup>105</sup> *Ibidem*.

<sup>106</sup> *Ivi*, p. 49.

<sup>107</sup> *Ivi*, p. 27.

<sup>108</sup> However, in the fourth chapter of this dissertation I will demonstrate how the European Union and its Member States pointed also on a regular and effective health and mental care policy to stop the luring in terrorist organizations.

<sup>109</sup> *Ibidem*.

this is a ruthless decision, but absolutely not a chaotic one. These actions are part of the dehumanization process imposed upon every new terrorist when he enlists in this type of organization. In our century the depiction of the terrorists as people who are isolated in their own madness is not only academically wrong but also in a strategic way. First of all, they act in a social context and in response to a social pressure, they rebel against the society because they want that something is accomplished within the social and political conventional structures, not outside of them. They are not chaotic anarchists who believe that all kind of order should be banned. On the contrary they want to shape the social world to carve out a fitting space for them or they want to replace the constitutional order with their own structure. The majority of the terrorists think they're fighting for a cause and on the behalf of their brothers and sisters who are suffering and who cannot embrace the fight. They seek legitimization, not stigmatization. Secondly, terrorism in its essence is a group process, a social interaction. Contrary to the main idea of psychosis the scholars Clarke and Cornish wrote that an offender, like the rest of the population, try to seek benefits for himself through his actions so he evaluates rationally the benefits his decisions could bring to him.<sup>110</sup> In light of the consideration that the terrorist is a full member of the society, as any other modern man, he seeks to find his right position in the globalized world, so he surely will not act as a lone-wolf. He will act against the main establishment only if there are other people who support and share his own ideology.<sup>111</sup> Why we cannot afford to be hold responsible for the rising of terrorist groups? The American journalist Andrea Elliott further subscribed the importance of the social pressure on the radicalization of terrorists, because they are most likely to unite with others who sympathize with their suffering in everyday life.<sup>112</sup>

In the latest years we have heard the term radicalization used by journalists, professors and political analysts, but just a few among us will know

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<sup>110</sup> *Ivi*, p. 78.

<sup>111</sup> *Ibidem*.

<sup>112</sup> *Ivi*, p. 80.

exactly what they are talking about. What is the meaning of the term radicalization? Usually, when we say that someone has skipped to radical positions we normally mean that he wants to defy the status quo through the use of violent methods. So, when we talk about certain types of groups, as the aforementioned minorities or isolated categories, we use to see them as radicals when they try to manifest for their rights to be respected, and we attach to them some political, religious or cultural reasons to justify their behavior. Even if they hold different grudges for the rest of the population and sometimes they are rightfully indignant, their radicalization is seems as totally and absolutely negative.

However, as the Eichmann case should have already demonstrated, not every person who holds radical beliefs is going to express his disappointment with a violent action and not every person who commits violent or cruel actions is automatically a radical.<sup>113</sup> If we want to lighten them we need to explore more consciously the reasons which are behind the three phases of the terrorist commitment that Horgan calls involvement, engagement and disengagement. Even if all of them are relevant to the building of the terrorist identity, the Coalition must concentrate with a greater critical perspective on the first and on the third phases. On the one hand, since terrorists often claim to represent legitimate grievances which will generate sympathy in the general public, if we understand the root causes of these disaffections we could reduce the involvement in terrorism.<sup>114</sup> On the other hand, the root causes should be treated only as a precondition to the possibility of the involvement.<sup>115</sup> The real moment we need to understand is the so called triggering event which makes the single to leave his submissive condition to embrace an active engaged role. Still it is not easy to identify between the multiple facets of the human being that one particular bursting event. It seems unnecessary to state that there are different ideologically based terrorist groups, they go from the anarchist to the

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<sup>113</sup> *Ivi*, p. 84.

<sup>114</sup> *Ivi*, p. 86.

<sup>115</sup> *Ibidem*.

nationalistic ones, with different shades in the middle. The core feature is that their exponents, thanks to the ideology of the group, could finally achieve a social integration both as contemporary men in the globalized world and as cultural oppressed exponents, since now they are the champions of a collective identity.<sup>116</sup> The ideology is a comprehensive system of meaning that is particularly important when it comes to organize political arrangements, and it offers a steady support when the cultural systems seems inadequate to handle the social changes. So, an ideology could become an identity for the members of a group because it is a sense-making tool that the outsiders do not possess.<sup>117</sup>

Nowadays, we are facing a global terrorist threat which is grounded on religion, the so called global Jihad which aims to restore the preeminence of the Muslim religion and of the Arab Caliphate that once dominated a large part of the globe. First and foremost, I will introduce a conceptualization of modern politics based on the discoveries of Mark Jürgensmeyer. He started to investigate the complex melting of religion, violence and nationalism in the Punjab region, and then he enlarged his research to other countries like Kashmir, Sri Lanka, Iran, Egypt and Palestine.<sup>118</sup> In all these realities he found a similar model which rested on the “religionization” of the politics, where the old concept of political and social rebellion, that in the past has taken the form of Marxism or nationalism, nowadays is being declined in religious terms.<sup>119</sup> On this subject I have found two twins articles which were published on 9<sup>th</sup> November 2015 on the website of the American review Foreign Affairs. Two scholars, Manal Omar and Ayaan Hirsi Ali, have been invited to debate on the question of Islam and they were asked to present two opposite points of view. I have presumed that the final intentions of this comparison was to present to the readers the diversified issues that are being examined in order to find a non-superficial solution to defeat terrorism. The question that has been posed

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<sup>116</sup> *Ivi*, p. 89.

<sup>117</sup> Malet, *op. cit.*, p. 9.

<sup>118</sup> Baumann, *Paura Liquida*, *op. cit.*, p. 139-140.

<sup>119</sup> *Ibidem*.

concerned the idea that they needed to see if between the violence and the Islamic terrorist group there was a link with the faith they profess.

Manal Omar is the Vice President of the United States Institute for Peace and he is one of the principal supporters of Islam as a religion of peace. He stressed that in his opinion to believe that the Islamic terrorists are acting violently because extremism is the core tenet of the Quran, it is an oversimplification, since violence is committed by individuals who deliberately chose this path.<sup>120</sup> Manal agrees with Sen on the fact that there are other political and social circumstances involved in the burst of violence and religion is only a part of the mix.<sup>121</sup> Into the group of social contingences he puts also the colonial legacy and the artificial borders the Western countries have bequeathed to the Arab region.<sup>122</sup> According to him, Islam is only a tool to recruit people who have experienced injustice due to the political destabilization of the region that originated dysfunctional states and international and domestic uncertainties. If we mark this religion as inherently violent we ignore the majority of the Muslim population who wants to live in peace. Indeed, in 2014 more than 120 of the world's top Muslim leaders and scholars wrote an open letter to ISIS leader, Abu Bakr al-Baghdadi, denouncing its practicing as illegitimate.<sup>123</sup> On the other side, we have Ayaan Hirsi Ali, the author of *Heretic: Why Islam needs a Reformation Now*. His article was entitled *Islam Is a Religion of Violence* in opposition to the Manal's. Ayaan presented three different types of Muslims. He called the first ones the Medina Muslims, who are the fundamentalist branch based on *sharia* that wants to impose its faith on the others.<sup>124</sup> The second ones are the Mecca Muslims, who are more moderate and

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<sup>120</sup> M. H. Omar, *Islam is a Religion of Peace*, in Argument in Foreign Affairs Online, <http://foreignpolicy.com/2015/11/09/islam-is-a-religion-of-peace-manal-omar-debate-islamic-state/>, November 9, 2015. Online Access: 07/12/2015.

<sup>121</sup> *Ibidem*.

<sup>122</sup> *Ibidem*.

<sup>123</sup> *Ibidem*.

<sup>124</sup> A. H. Ali, *Islam is a religion of violence*, in Argument in Foreign Affairs Online, <https://foreignpolicy.com/2015/11/09/islam-is-a-religion-of-violence-ayaan-hirsi-ali-debate-islamic-state/>, November 9, 2015. Online Access: 07/12/2015.

not inclined to practice violence.<sup>125</sup> Finally, the third ones are the Modifying Muslims, a group that is emerging after the rise of ISIS and who wants to promote the separation between religion and politics.<sup>126</sup> There are some verses of the Quran which openly supported violence as the Q8:60, which prescribes to strike terror into the enemies of Allah and the Q9:29, which instruct Muslims to fight those who do not believe in Allah,<sup>127</sup> but there are also peaceful passages. Nonetheless, he denounced that some academics deny the religious duality of this fundamental issue.<sup>128</sup> Avoiding to recognize the weightiness of political Islam terrorism will not be defeated. He brilliantly adds that the problem of radicalization does not begin with the suicide bomber who dressed up with explosives, but in the mosques where imams preach hate, intolerance and adherence to Medina Islam.<sup>129</sup> These two points of view displays the concept that from times to times the religion is only another instrument of the social construction, which is being manipulated in an underhand manner to take advantage of the weak spots of the human being. In the second part of my dissertation there will be a particular part where I will show how the manipulation of a religion could go far when the chiefs in command deprive the faith of its good implications. Now, I would like to take a step back to the engagement process in order to present some considerations on the parameters the recruiters of a terrorist organization use to find its combatants. Since the new recruits will be in the next future the main promoters of the terrorist organizations claims, the entire group itself is involved in the training which aim is to prepare the attackers to fulfill their goals. The main terrorist action usually involve a certain level of emotional pressure, so the perfect volunteer has to be able to bear difficult situations.<sup>130</sup> The *Al-Qaeda Manual Military*

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<sup>125</sup> *Ibidem.*

<sup>126</sup> *Ibidem.*

<sup>127</sup> *Ibidem.*

<sup>128</sup> *Ibidem.*

<sup>129</sup> *Ibidem.*

<sup>130</sup> Horgan, op. cit., p. 120.

*Studies in the Jihad against the Tyrants*,<sup>131</sup> reports the main traits a potential member should have and these are:

- 1) Sacrifice, the member needs to be full of self-denial to undergo martyrdom in order to permit to the ideal of the organization to be effective.<sup>132</sup>
- 2) Listening capability and Obedience, the member needs to fulfill his duties without questioning the good faith of his supervisors.<sup>133</sup>
- 3) Patience, the member should wait for the right moment to strike and in the meanwhile he needs to be willing to sustain the suffering and the violence perpetrated by the enemy.<sup>134</sup>
- 4) Tranquility and Unflappability, the member should have a calm personality to endure long periods of distress and the possibility of incurring in psychological traumas due to bloodshed, imprisonment and murder.<sup>135</sup>
- 5) The members should not be Curious or Inquisitive and these are obvious and implicit qualifications which go with the previous ones.<sup>136</sup>

The presence of all these requirements demonstrates a fundamental fact, that the recruiters do not choose randomly, because the general tasks of a terrorist are inherently demanding. Moreover, all the operations an organization is involved in are secrets so the members have to be really evasive and controlled. A martyr, in the current case a person who's going to make himself explode willingly to spread an ideal, is taught that with this gesture he will gain prestige in the eyes of the entire community, and as I said earlier, he will find his place inside a broader community.<sup>137</sup> The rationalization of his perceived achievement is a part of the indoctrination.<sup>138</sup> This training is a sort of militarization process in different phases that has the final intent to create a submissive human who will be employed as a living bomb against other human

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<sup>131</sup> *Ibidem.*

<sup>132</sup> *Ibidem.*

<sup>133</sup> *Ibidem.*

<sup>134</sup> *Ibidem.*

<sup>135</sup> *Ibidem.*

<sup>136</sup> *Ibidem.*

<sup>137</sup> *Ivi*, p. 124.

<sup>138</sup> *Ibidem.*

beings. Chiefly, the first step is to clarify in the mind of the recruit who is his antagonist. One of the tactics used to achieve this is to always exaggerate the differences between the actions of the in-group and of the out-group while comparing them and the instructors will always loom favorably for their own group, stigmatizing the other one.<sup>139</sup> Secondly, the routinization process follows and in this phase the newly terrorist will renounce to his deliberate decision-making freedom, so he will concentrate on the details involved in his job and he will forget the general view.<sup>140</sup> Thirdly, the de-individualization will help strengthen the conformity of the group.<sup>141</sup> There will be only one morality and every kind of critic against it will prove to be useless. From this point the recruit is no longer able to be in charge of his decisions so he will follow to the letter the orders of his advisors, acting impulsively because he will always be reminded of his task.<sup>142</sup>

This sort of training the terrorist undergoes has a lot of traits in common with the military discipline. Indeed, a terrorist shares with a soldier the tool he uses to perpetuate his goals, that is the violence. The soldier is fighting for a legitimate government that he cannot question because of the hierarchical system and he is trained to use weapons and techniques that will provoke harm to his adversary. The terrorist does the same but he is fighting against the same authority the soldier is submitted to, but at the same time he has succumbed to his own organization. Same contents, different parties.

The tactical military strategy we should fear the most reside in the power of the words, which could be terrifying, as linguistics like Jacques Derrida and Michael de Foucault have shown. Indeed, for the chiefs in command is possible to replace the word "victim" with "collateral damage" through the use of palliative expressions, whose function is to alleviate a problematic issue without addressing or revealing the underlying cause. Through this exercise the

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<sup>139</sup> *Ivi*, p. 125.

<sup>140</sup> *Ibidem*.

<sup>141</sup> *Ibidem*.

<sup>142</sup> *Ibidem*.

soldier will feel distant from the responsibility of his act like a terrorist would not suffer from the death of an infidel. In both realities some neutralization techniques are exploited to find justifications to the suppression of normative values, so it would be possible for the actor to rationalize a certain extreme demeanor without feeling guilt or remorse before, during or even after the engagement action. There are five dominant techniques which are the denial of responsibility, the denial of injury, the denial of the victim, the condemnation of the condemners and the appeal to higher loyalties.<sup>143</sup> The first four categories have already been examined. The last one need to be deepen a little bit because it encloses the concept of loyalty. If you aren't loyal to the higher authority which defend the interests of the group, you have to be considered a traitor and you need to be banished. Nationalistic and religious faiths are conventionally ruled by this belief which has the minus to perpetrate the general feeling of fear and uncertainty.

Anyway the developing of this attitudes is surely preoccupying because it leaves some open space to the return of a totalitarian climate. Another important point is that the contemporary terrorist organizations have reached the power in countries that International Law considers as "failed". A failed state is a political entity where the legitimate governmental structures have lost the effective control over the population and the territory, so the three-dimensional theory is no longer accomplished.<sup>144</sup> Since the international order does not tolerate a vacuum, a race between foreign states, internal political

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<sup>143</sup> *Ivi*, p. 127.

<sup>144</sup> Professor Daniel Thürer defined failed states as "states in which institutions and law and order have totally or partially collapsed under the pressure and amidst the confusion of erupting violence, yet which subsist as a ghostly presence on the world map, are now commonly referred to as "failed States" or "Etats sans gouvernement". However, neither expression is sufficiently precise. "Failed" is too broad a term, for, going to the opposite extreme, the aggressive, arbitrary, tyrannical or totalitarian State would equally be regarded as having "failed" -- at least according to the norms and standards of modern-day International Law. On the other hand, "State without government" is too narrow, since, in the type of State discussed in this article, it is not only the central government but all the other functions of the State which have collapsed. For this reason, the term "failed State" as used in the following text should be understood to mean "disintegrated" or "collapsed" State." (in *The "failed State" and International Law*, 31-12-1999 Article, International Review of the Red Cross, No. 836, <https://www.icrc.org/eng/resources/documents/misc/57jq6u.htm>).

parties and other politicized or military groups starts in the attempt to gain the control. The element of danger in this races resides in the possibility of intervention of foreign powers. When a foreign country tries to intrude in a civil war that is taking action in a particular territory, to sustain economically one of the parts, it is hard to know what the real consequences will be and if they will be positives. For instance, in Latin America, during the Sixties an the Seventies, the United States used to support economically and militarily some political parties of the right wing, where most of them were exponents of the military. Those parties instituted the majority of the Latin American modern dictatorships thanks to the support of a civilized country which was fearing the remnants of the Cold War. Why we should keep to sustain another Vietnam War? The Western countries in the Middle East, most of the times, claim to intervene for the sake of the population they are bombing, exactly like the Americans did to the *vietcongs*. The United States in those days did not understand that the Vietnamese just wanted their own freedom, they wanted to be treated as equals, they wanted to be free. The situation in Iraq, Afghanistan, Iran and Syria it is not exactly the same, because every war have some originality, but still the West claims to be the saver, even when it is not the case.

The psychologist Stanley Milgram made an interesting experiment where he demonstrated how a human being could be cruel towards one of his similar when he knows to be backed up by an authority.<sup>145</sup> There were two persons involved, a "teacher" and a "learner". The first one had to pose some questions and if the second did not answer correctly the teacher had to give him an electroshock; the intensity of the shock would be commiserated to the seriousness of the mistake.<sup>146</sup> Some teachers showed signs of distress and reluctance, while others demonstrated to be too meticulous in accomplish their task as they could have provoked the death of the student.<sup>147</sup> The reason they

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<sup>145</sup> *Ivi*, p. 118.

<sup>146</sup> *Ibidem*.

<sup>147</sup> *Ibidem*.

gave to justify their zeal was that they were asked to do so by Milgram for the good of the learners.<sup>148</sup>

If we go on in analyzing the final steps of the training of a terrorist recruit it is possible to see that he would be supposed to have obtained some specialized skills, like the comprehension of a specific internal language, the empowerment in control and defensive tactics, a new devotion to personal and group fantasies, a lower degree of inhibition in relation to violent behavior and a consequent increase in terrorism related activities with a consequent reduction in the interactions outside the terrorism-related social activities.<sup>149</sup> When a terrorist arrives to this point, he will be involved soon in some violent actions and from now on it could be mostly impossible to take him back.<sup>150</sup> In the moment someone decides to stand against the constitutional order, it is really difficult to reeducate him permitting him to return to be a part of the normal society. The studies accomplished by Foucault in the penitentiaries can symbolize this last statement. If we could prevent the person to be allured by a mermaid recruiter, we could reduce significantly the number of people who subscribe to organizations like ISIS.

In order to be aware of the dynamics that are used to lure the possible candidates, we should focus more on a particular moment in the life of a terrorist that have been forgotten by the academic world: the disengagement.<sup>151</sup> The amount of *pentiti*, borrowing the expression used to label who betrays a criminal organization, is not really high but still there are some of them who decided to distance from the political violence.<sup>152</sup> It was the case of some exponents of the Italian Red Brigades who had enough of the secret world of the terrorist organization.<sup>153</sup> Since they are so few in numbers, the scientific community should concentrate more in collecting their testimonies, so we could

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<sup>148</sup> *Ibidem.*

<sup>149</sup> *Ivi*, p. 132.

<sup>150</sup> *Ibidem.*

<sup>151</sup> *Ivi*, p. 136.

<sup>152</sup> *Ibidem.*

<sup>153</sup> *Ivi*, p. 138.

understand more which aspects of the social life we should rethink. It arrives the moment, while perpetrating these violent acts, where the single reaches a limit where his patience cannot take more stimulus and so he starts to recollect his own individuality.<sup>154</sup> When he fully recollect his individuality he sees that the actions the group is perpetrating go against the interests of the majority of the population and in that instant he denies his militancy.<sup>155</sup> Horgan interviewed a foreign fighter who fled from the United Kingdom in direction of Afghanistan to join the Jihad.<sup>156</sup> When he arrived, he saw that the militants used during their violent operations the kids and the elderlies as cannon fodders.<sup>157</sup> After he witnessed this exploitation he was so disgusted and disillusioned that he returned to England without taking part in a single action.<sup>158</sup> This particular foreign fighter said he wanted to go to Afghanistan to help innocent people, kids in particular, and the moment he saw they were sent to battle without adequate training and ammunitions, he suddenly understood the idealized image that was depicted to him did not correspond to the reality.<sup>159</sup>

A good information is always the key of the understanding of a particular situation, and a good mean to contrast the disinformation. There are two types of disengagements which are described by the author. The physical one could be a total sudden break with the group or a step-by-step procedure.<sup>160</sup> The psychological one is when the terrorist changes his attitude and beliefs and he feels no more sympathetic with the terrorist aims.<sup>161</sup> In the majority of the cases is not a sudden event, it is an evolution that comes with thousand little stages, similarly to the process of involvement and engagement, something that is gradual and slow.<sup>162</sup> Resuming the disengagement process in three principal

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<sup>154</sup> *Ibidem.*

<sup>155</sup> *Ivi*, p. 145.

<sup>156</sup> *Ibidem.*

<sup>157</sup> *Ibidem.*

<sup>158</sup> *Ivi*, p. 146.

<sup>159</sup> *Ibidem.*

<sup>160</sup> *Ivi*, p. 140-141.

<sup>161</sup> *Ibidem.*

<sup>162</sup> *Ibidem.*

phases there are the presence of negative influences as a result of a sustained membership, the changing in priorities and a sort of general disillusionment.<sup>163</sup> Starting from this point, it is possible to organize a series of de-radicalization programs and narratives which could help to reduce recidivism and which are organized through a series of overlapping activities.<sup>164</sup> Unfortunately, since there are no formal evaluating task-forces which could control the effectiveness of their agendas their utility remains questionable.<sup>165</sup> Undoubtedly this is a practice that should be continued, even if there are no certainties about its success, as in the case of the rehabilitation of the ex-convicted. Nevertheless the implementation of the education could be a better preventive policy. A better intelligence work is needed in order to spread a better understanding of the different cultures.

## 1.5 Conclusions

I have started my dissertation enlightening the fact that the globalization process should be considered the underlying cause of the uncertainties that torment the contemporary man. Since he cannot face to feel useless and at the mercy of a nebulous presence he tried to build some defense mechanisms to find a place for himself. The social construction he manufactured sometimes have taken the form of authoritarian traits which included a xenophobic behavior. This general feeling of exclusion and discrimination which affects the majority of the non-Western born citizens contributed to the increase of the radicalization wave that has led to the birth of the contemporary Islamic terrorism. Notwithstanding the cruelty these groups could have found in their own religion, the Western countries with their ineffective policies have surely helped their development. One of the major problems in the attitude of the

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<sup>163</sup> *Ivi*, p. 146.

<sup>164</sup> In a part of the third chapter and in the fourth one these arguments will be studied with a more conscious eye.

<sup>165</sup> *Ivi*, p. 148.

Western powers is their constant paternalistic feeling towards a differing culture they hold to be lesser than their own. This arrogance has pushed a lot of young people to embrace a violent struggle, both because they wanted to challenge the United States and Europe, and because most of them do not want to be considered anymore second-class citizens. So, it has started an ideological war between the West and the East of the world which had the only result to originate a general increase in violence and the death of dialogue. We respond to violence with violence, without analyzing the core reasons behind the actions of the terrorists, and behind our past actions. Instead of pledging for demilitarization, the First world asks for a new militarization to face the terrorists. It is now taking place a struggle between two different opponents who are using the same means to contrast each other and this is resulting only in a worsening of the situation.

I want to recall the recent words of the Russian President Vladimir Putin who 23th October 2015 said that there is no need to distinguish between moderate and other terrorists.<sup>166</sup> He also presented some good observations, since he asserted that there is the need to stop the double-game played by some civilized countries which supplied different groups with weapons.<sup>167</sup> In addition, he observed that the defeating of terrorism will not solve all the problems of these regions and that the war in Syria should become an example of cooperation between different countries that will perceive each other as partners in a common fight.<sup>168</sup> These remarks are surely important but still his general statement, that there is no need to distinguish, demonstrates that there is no intention to open a dialogue with a different world. If we handle the terrorists without comprehending their reasons we will find ourselves in a never ending war. The dialogue is essential, because only knowing who we are fighting we can understand what is the best possible strategy to use.

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<sup>166</sup> RT Question More, 23 of October 2015, *Putin: No need to distinguish between 'moderate' & other terrorists*, <https://www.rt.com/news/319405-putin-valdai-discussion-club/>, online access: 05/12/2015.

<sup>167</sup> *Ibidem*.

<sup>168</sup> *Ibidem*.

I want to conclude reporting the final reasoning of Manal Omar and Ayaan Hirsi Ali, who have been mentioned above. Even if they are presented as two academics defending different schools of thoughts, actually they are aimed at the same direction. Manal specified that to solve their problem of violent extremism we need to embrace the complexity of the issue.<sup>169</sup> If we opt for a balanced approach we should be able to comprehend that violent extremism is not inherently specific of one identity, culture, ethnicity or religion, but it is related with the needs of the human race.<sup>170</sup> Ayaan remembers to us that if we solely stop a radical group another will take its place, while reasserting the importance of taking seriously the position of the Islam.<sup>171</sup> It would be rather preferable to counter extremist ideologies of death and intolerance educating one another to a message of life, liberty and peace.<sup>172</sup> Notwithstanding, the effectiveness of the diplomatic and cultural approach relies also on the efficiency of the legal frameworks we own and that divide sturdily between a legitimate and a criminal behavior.

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<sup>169</sup> Manal, op. cit.

<sup>170</sup> *Ibidem*.

<sup>171</sup> Ayaan, op. cit.

<sup>172</sup> Ayaal and Manal, op. cit.

## 2.

### Legal Definition of International Terrorism

Why is justice better than forgetting? Justice is preferable to forgetting both  
on a moral and a practical level.

Antonio Cassese, *Reflections on International Criminal Justice*

*Summary:* 2.1 A Constant Search for "The Definition"; 2.2 UN Security Council Resolutions; 2.3 European Legal Framework; 2.4 The Criminalization of Terrorism; 2.5 Who are Foreign Fighters?; 2.6 The Muslim Foreign Fighters; 2.7 The Foreign Fighters under International Law; 2.8 The Islamic State (ISIS); 2.9 Conclusions

The recent attacks to the city of Paris from the part of the terrorists who pledged loyalty to ISIS, undermined seriously the perception of the democratic reality of the Europeans<sup>173</sup> and after the proclamations of some moves from the part of the European governments, it is important to remind how the powers which fought in the Second World War understood that the respect for life needed to be in the first place. The chiefs of state started to speak about an "act of war",<sup>174</sup> and France, the United Kingdoms and Germany started to side the

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<sup>173</sup> However, it is also important to remind that all over the world, in the latest few years, a lot of terrorist assaults have been launched in different parts of the world, affecting populations that are not part of the European territory. For instance, during the 2010s a lot of different attacks have been launched in Afghanistan, Cameroon, Egypt, Iraq, Iran, Israel, Nigeria, Pakistan and Turkey from the part both of al-Qaeda, ISIS and Boko Haram. One of the most recent is the one that occurred at the Bacha Khan University in Charsadda, Pakistan on 20<sup>th</sup> January 2016, where the Taliban forces killed at least 30 people. The current restriction to the Paris attacks and the focus on the European reaction was suitable for the general intent of the dissertation.

<sup>174</sup> *Attentats : la France face à un "acte de guerre" après la mort de 129 personnes*  
En savoir plus sur Les Echos Online,  
[http://www.lesechos.fr/14/11/2015/lesechos.fr/021477022564\\_attentats--la-france-face-a-un--acte-de-guerre--apres-la-mort-de-129-personnes.htm#85B1qJPoQmk66oOL.99](http://www.lesechos.fr/14/11/2015/lesechos.fr/021477022564_attentats--la-france-face-a-un--acte-de-guerre--apres-la-mort-de-129-personnes.htm#85B1qJPoQmk66oOL.99)

bombings of Syria together with the United States. Fear has been spread through the European population, who is envisioning the actual international crisis as a cultural struggle between the West and the Middle East. The Italian Prime Minister Matteo Renzi continues to declare that a military action could now be inevitable,<sup>175</sup> but if the West wants to soften the situation a long-term ensuring peace strategy should be used, pointing at the empowerment of the education.<sup>176</sup> Despite the foreseeable possible changes in the world counter-terrorism strategy, it is essential to understand the operations that have been done so far. I will begin presenting briefly the long-standing question of the quest for a definitive definition of terrorism. Subsequently, I will present the primary UN Resolutions and European Framework Decisions which have represented the basement for the contemporary counter-terrorism and then I will contextualized the problem under the lens of the international criminal law. Thirdly, I will question the problem of the foreign fighters, who are raising so much awareness in our continent after the above mentioned attacks. Finally, I will analyze the evolution of the ISIS terrorist movement. This chapter is connected with the fourth one, when I will deepen the issue of the respect of the human rights and I will actualize the criticism, the raise of the Islamic State gave to the field of counter-terrorism. So, the two chapters have been thought to complete one another.

## **2.1 A Constant Search for “The Definition”**

Chiefly, in order to criminalize a specific conduct it is essential to describe effectively what kind of behavior go against the social conventions, in other

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[http://www.lesechos.fr/14/11/2015/lesechos.fr/021477022564\\_attentats--la-france-face-a-un--acte-de-guerre--apres-la-mort-de-129-personnes.htm](http://www.lesechos.fr/14/11/2015/lesechos.fr/021477022564_attentats--la-france-face-a-un--acte-de-guerre--apres-la-mort-de-129-personnes.htm), 14 November 2015. Online Access: 17/01/2016.

<sup>175</sup> S. Montefiori, *Attentati a Parigi, Renzi incontra Hollande: «Confermiamo impegni, Prossimo sforzo sulla Libia»* on il Corriere della Sera Online, 26 November 2015, [http://www.corriere.it/esteri/15\\_novembre\\_26/attentati-parigi-renzi-incontra-presidente-francese-hollande-b4b53bc2-940d-11e5-be1f-3c6d4fd51d99.shtml?refresh\\_ce-cp](http://www.corriere.it/esteri/15_novembre_26/attentati-parigi-renzi-incontra-presidente-francese-hollande-b4b53bc2-940d-11e5-be1f-3c6d4fd51d99.shtml?refresh_ce-cp). Online Access: 17/01/2016.

<sup>176</sup> *Ibidem*.

words we need to devise what conduct fail to meet the global expectations and, once this passage has been done we could formulate the law accordingly. Unfortunately, the definition of what is exactly to be considered terrorism has always been a thorny question, since it is difficult to reconcile the conceptions of different countries.

The origin of the word “terrorism” dates back to the French Revolution of 1789, where it was used to describe a particular governance chosen by the revolutionaries.<sup>177</sup> However, the international community started to be massively concerned by the phenomenon during the 1960s because of a series of aircraft hijackings.<sup>178</sup> Despite these latest events it is true that the first attempt to draft a definition was made in 1934, when a Croatian nationalist killed in Marseilles, France, the King Alexander of Yugoslavia and the French minister Jean-Louis Barthou.<sup>179</sup> The first draft definition determined the Geneva Convention on Terrorism, that was the result of an International Conference summoned in 1937.<sup>180</sup> This document condemned all the facts that were supposed to endanger the life and the freedom of the chief of states and of their attachés and, secondly, all the demeanor that could destroy the public infrastructures and the prosperity of the civilian lives.<sup>181</sup> However, the Convention was ratified only by the Indian government so it never entered into force.<sup>182</sup> In the Seventies the UN General Assembly tried to visualize a preliminary definition of terrorism, condemning “all acts, methods and practices of terrorism wherever and by whomever committed”.<sup>183</sup> In addition, on 18<sup>th</sup> of December 1972 the UN GA Resolution n. XXVII/3034 was released, announcing the decision of the ONU to study the underlying causes of acts of

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<sup>177</sup> A. Conte, *Human Rights in the Prevention and Punishment of Terrorism. Commonwealth Approaches: The United Kingdom, Canada, Australia and New Zealand*, Springer Heidelberg Dordrecht London-New York, 2010, p. 7.

<sup>178</sup> *Ibidem*.

<sup>179</sup> S. De Vido, *Il contrasto del finanziamento al terrorismo internazionale. Profili di diritto internazionale e dell'Unione Europea*, Milano, Casa Editrice Dott. Antonio Milani (CEDAM), 2012, p. 2

<sup>180</sup> *Ibidem*.

<sup>181</sup> *Ibidem*.

<sup>182</sup> *Ibidem*.

<sup>183</sup> *Ivi*, p. 4.

terrorist violence committed as it was stated, in the name of frustration, misery, despair and grievance and that resulted in the sacrifice of human lives.<sup>184</sup> In this Resolution they reasserted the right to self-determination for all humans who were under colonial or racist régimes or any other forms of alien domination as well.<sup>185</sup>

Usually, the right to self-determination is described as "the right for all people who share a common historical tradition, racial or ethnic identity, cultural homogeneity, linguistic unity, religious or ideological connections, territorial belonging and a common economic life, to determine their political status and freely pursue their own economic, social and cultural development."<sup>186</sup> In this situations, the so called freedom fighters were legitimated to the use of force, since they were struggling against governing authorities that were repressing their freedoms. However, in the 1994 Declaration on Measures to Eliminate International Terrorism, the General Assembly clarified that the struggles for self-determination did not legitimized the use of terrorist methods.<sup>187</sup>

Nonetheless, a lot of African, Asian and Arab countries pushed for the exclusion of the freedom fighters from the definitive definition, because they were still fighting for their freedom from the colonialist powers.<sup>188</sup> The Western states contested to their Eastern partners their positions, in particular the third paragraph where there was declared the "legitimacy of the struggle of national liberation movements".<sup>189</sup> The problem presented in this particular passage of the resolution posed the doubt if then General Assembly wanted to recognize as

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<sup>184</sup> United Nations General Assembly Documents, <http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/270/64/IMG/NR027064.pdf?OpenElement>  
<http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/270/64/IMG/NR027064.pdf?OpenElement>.  
Online access: 07/12/2015.

<sup>185</sup> *Ibidem*.

<sup>186</sup> Conte, op. cit., p. 12.

<sup>187</sup> *Ivi*, p. 13. Declaration on Measures to Eliminate International Terrorism, adopted under GA Res 49/60, UN GAOR, 49<sup>th</sup> Sess, 84<sup>th</sup> Plen Mtg, UN Doc A/Res/49/60 (1994), para 1.

<sup>188</sup> *Ibidem*.

<sup>189</sup> M. Sossai, *La prevenzione del terrorismo nel diritto internazionale*, G. Giappichelli Editore, Torino, 2012, p. 15.

legitimate every form of military and non-military solution exploited in order to free a particular country.<sup>190</sup> So, due to this impossibility to blend the different ideologies, every sovereign state had its own definition of terrorism, and also because until the XXI century it was an unilateral menace to the internal order of only one State at time.<sup>191</sup> Starting from the 9/11 attacks, the International Community had to recognize that the range and the dangerousness of contemporary terrorism have increased exponentially.

Despite this, at the beginning the UN Security Council did not want to establish a definition that could admit knowledge of a transnational threat, since it preferred to legislate against a single or a delimited group, like al-Qaeda which was considered an illegitimate group which had not a full control on a territory.<sup>192</sup> Nevertheless, at a certain point the States needed to recognize they were in the need to take a special approach that could respect their political interests,<sup>193</sup> since terrorist actions induced a major fear in their citizens who were also fueled by the media attention.<sup>194</sup>

The States did not want their security credibility to be compromised in the eyes of the mass.<sup>195</sup> The VII chapter of the UN Charter identifies the SC as the authority which has the power to identify the attackers to national and global order, and it also exercise the right to establish in a civil conflict who is the legitimate fighter, almost favoring the democratic ones.<sup>196</sup> One of the historical decisions of the Security Council concerns the Lockerbie case,<sup>197</sup> where the UN affirmed that the responsibility of every state "beings whenever it takes part directly or indirectly in an action."<sup>198</sup> Another case is related to the al-Qaeda

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<sup>190</sup> *Ibidem.*

<sup>191</sup> De Vido, op. cit., p. 9-10.

<sup>192</sup> Focarelli, op. cit., p. 699.

<sup>193</sup> Conte, op. cit., p. 18.

<sup>194</sup> *Ibidem.*

<sup>195</sup> *Ibidem.*

<sup>196</sup> *Ibidem.*

<sup>197</sup> Sossai, op. cit., p. 22. On 21th December 1988 a Boing 747 of the Pan American Airlines exploded over the skies of Lockerbie, in Scotland. It ended with the death of 259 passengers and a warrant was released for two agents of the Libyan Secret Services.

<sup>198</sup> *Ivi*, p. 24.

attacks in Nairobi and Dar es Salaam in 1998 at two American embassies.<sup>199</sup> The council did not authorized the bombing of the trainer camps of al-Qaeda but in Resolution 1267/1999 it condemned the terrorist attacks and in the preamble the Council recalled the concept *aut dedere aut judicare*,<sup>200</sup> and with the following Resolution 1333/2000 the Council openly condemned the concept of harboring.<sup>201</sup>

The terrorist attacks perpetrated in the 1990s, until the 9/11 event, demonstrated a progressive escalation in the internationalization of the phenomenon, to which was added a new interest for religious fanaticism, the increasing number of the victims and the escalated destructiveness of the weapons (stating that the terrorist group sook now for weapons of mass destruction).<sup>202</sup> A new form of iper-terrorism was born,<sup>203</sup> which rested on the concept of the anomy conceived by Durkheim, who stated that the rupture with the social rules could lead to deviation based on the overstimulation and on the intolerance towards limits and rules.

The problem started to differentiate from the past but some authors are not convinced that the fault of a definition should be an obstacle for the implementation of the conventions against terrorism and the mutual cooperation between states.<sup>204</sup> Since the 1970s thirteen universal conventions related to terrorism have been adopted, dealing with specific forms and events,<sup>205</sup> and they were precise in nature and non-general. On 9<sup>th</sup> December 1999 the GA approved a Resolution where it was demanded the creation of an Ad Hoc Committee for the finding of a definition and the elaboration of a global convention on international terrorism.<sup>206</sup>

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<sup>199</sup> *Ivi*, p. 29.

<sup>200</sup> *Ivi*, p. 30.

<sup>201</sup> *Ibidem*.

<sup>202</sup> *Ivi*, p. 31.

<sup>203</sup> *Ivi*, p. 32.

<sup>204</sup> De Vido, op. cit., p. 9-10.

<sup>205</sup> Conte, op. cit., p. 19.

<sup>206</sup> De Vido, op. cit., p. 17.

### 2.1.2 The Turning Point of the 2000s

Finally, in 2002 the draft stated in article 2 par. 1 that “any person commits an offence within the meaning of this Convention if that person, by any means, unlawfully and intentionally causes: (a) Death or serious bodily injury to any person; or (b) Serious damage to public or private property, including a place of public use, a State or a government facility, a public transportation system, an infrastructure facility or the environment; or (c) Damage to property, places, facilities or systems referred to in paragraph 1 (b) of this article, resulting or likely to result in major economic loss, when the purpose of the conduct, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act”.<sup>207</sup> In 2011 the Ad Hoc Committee reiterated its believing that a Draft Convention could permit to fill the legal lacunae.<sup>208</sup> There are three main issues that have been raised by a few delegates during the negotiations of the draft. The first point concerned the right of people to self-determination under International Law.<sup>209</sup> The second referred to the activities of armed forces in armed conflicts and the third affected the activities of military forces of a State in peacetime, also related to state terrorism.<sup>210</sup> Some jurists proposed to treat these arguments on the grounds of the Common Law, agreeing with the pronouncement of the Court of Appeal of the Special Tribunal for Lebanon,<sup>211</sup> that recognized in the intent and in the perpetration, or in the menacing to perpetrate, a terrorist act endangering the population in order to compel a government or an international organization to do something, operating in a transnational climate.<sup>212</sup>

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<sup>207</sup> *Ibidem.*

<sup>208</sup> *Ivi*, p. 18.

<sup>209</sup> *Ivi*, p. 19.

<sup>210</sup> *Ibidem.*

<sup>211</sup> *Ivi*, p. 23.

<sup>212</sup> *Ibidem.*

On 24<sup>th</sup> January 2005 the Tribunal of Milan appointed a similar definition of terrorism.<sup>213</sup> Some alleged terrorists were accused to be part of a local cell called Ansar Al Islam, and in the sentence the judge in charge of the Preliminary Investigations distinguished an act of guerrilla from an act of terrorism on the basis of the focus of the action.<sup>214</sup> Terrorism is focused on disseminating indiscriminate terror into the civil population in the name of an ideological or religious faith, and these facts are so somber that could be equalized to a crime against humanity.<sup>215</sup> The judge also stressed out three elements that could be used to connect international terrorism to international criminal prosecution. First and foremost, there is a criminal act, that is the spreading of the terror between the civilians.<sup>216</sup> Secondly, the objectives of the act are civilians or soldiers who are no longer taking part to the hostilities, so their attacking is considered a crime under the *Jus in Bello*.<sup>217</sup> Thirdly, the end of the act is the manipulation of a political agenda.

Antonio Cassese, Italian judge, professor of International Law and legal expert in the domain of the human rights, chaired the above-mentioned Special Tribunal for Lebanon in 2009 and examined personally the question of the criminalization of terrorism. He asserted that terrorism, together with torture and aggression, falls into the category of the core crimes deserving international criminal adjudications.<sup>218</sup> Cassese examined these perspectives and he began demonstrating that there are almost three different positions concerning the definition of this very same issue. There are states, like Pakistan, Libya, Syria and Iran,<sup>219</sup> which insisted that any act perpetrated by people or organizations engaged in wars of self-determination should be completely exempted from the label of terrorism.<sup>220</sup> A second position agrees on the fact that even if freedom

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<sup>213</sup> Focarelli, op. cit., p. 700.

<sup>214</sup> *Ibidem*.

<sup>215</sup> *Ibidem*.

<sup>216</sup> *Ibidem*.

<sup>217</sup> *Ibidem*.

<sup>218</sup> A. Cassese, *International Criminal Law*, Third Edition, Oxford University Press, Oxford, 2013, p. 148.

<sup>219</sup> Conte, op. cit., p. 22.

<sup>220</sup> *Ibidem*.

fighters cannot be subjected to International Law on terrorism, nevertheless their actions remains governed by the international humanitarian law of armed conflicts.<sup>221</sup>

A third solution proposed the combined application of the international rules on terrorism with the international humanitarian law.<sup>222</sup> The supporters of this last position believe that when freedom fighters and other combatants fight in an armed conflict and they aim at striking the military personnel and objectives, as soon as they respect the major principles of the International Humanitarian Law, their actions are to be considered lawful.<sup>223</sup> If these parts target, instead, civilian citizens and their purpose is to spread terror, the courts should apply both the rules of the IHL and the frameworks of the legal dominion strictly related to terrorism.<sup>224</sup>

The requisite practice, or *usus*, lies in the converging adoption of national laws, UN Resolutions and the ratification of the existing conventions by the greatest amount of states.<sup>225</sup> According to the general *opinio juris*, the Customary Law requires three elements to identify a terrorist action: the perpetration of a criminal act or the threat of such an act, the intent to spread fear among the population to directly or indirectly coerce a government or an international organization and the involvement in the act of a transnational element, confirming the previous sentence of the Italian court that has been reported.<sup>226</sup>

## 2.2 UN Security Council Resolutions

Broadly speaking, the General Assembly, the Security Council and the UN Secretariat worked in concert to contrast terrorism, expressing the functional

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<sup>221</sup> *Ibidem*.

<sup>222</sup> *Ibidem*.

<sup>223</sup> *Ibidem*.

<sup>224</sup> Cassese, op. cit., p. 148.

<sup>225</sup> *Ivi*, p. 149.

<sup>226</sup> *Ibidem*.

aspect of the UN Charter.<sup>227</sup> There are a lot of UN agencies that have been focusing on the issue for the latest fifteen years and all of them are bringing their contribution.<sup>228</sup> In this Chapter I will focus on the Security Council resolutions because of their compelling nature and in the fourth Chapter I will approach some resolutions and statement of the General Assembly, since this body has been more active and concerned with the issue of human rights.

The first official document which has acquired a central importance in the counter-terrorism measures is the UN SC Resolution 1373/2001, that was adopted by the SC at its 4385<sup>th</sup> meeting on the 28 of September 2001, after the 9/11 attacks.<sup>229</sup> It has been recognized as one of the most “strongly wounded” resolutions in the history of Security Council,<sup>230</sup> when it was required the criminalization of every form of financing of terrorism, the mutual cooperation in extradition matters and sharing of information.<sup>231</sup> The SC started with the recognition that terrorist acts are a threat to international peace and security, and they are supposed to be fought by all means, recalling also the to work together in accordance to the principles of the UN Charter.<sup>232</sup> Consequently, the second part of the Resolution encourages all the MS to refrain from providing any financial, political or military support to the terrorists.<sup>233</sup> The states agreed on assuring that any suspect would be brought to justice as a criminal offender under their domestic laws and regulations.<sup>234</sup> Moreover, it is established a strengthen on border controls that goes with a greater strictness to identity and travel documents permitting to gather intelligence, which confidential information should be shared within the appointed agencies of the MS.<sup>235</sup> In

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<sup>227</sup> Conte, op. cit., p. 47.

<sup>228</sup> *Ibidem*.

<sup>229</sup> SC Res 1373, UN SCOR, 4385th Mtg, UN DOC S/RES/1375/2001.

<sup>230</sup> Conte, op. cit., p. 53.

<sup>231</sup> *Ibidem*.

<sup>232</sup> UN Resolution 1373/2001,

[http://www.un.org/en/sc/ctc/specialmeetings/2012/docs/United%20Nations%20Security%20Council%20Resolution%201373%20\(2001\).pdf](http://www.un.org/en/sc/ctc/specialmeetings/2012/docs/United%20Nations%20Security%20Council%20Resolution%201373%20(2001).pdf), p. 1. Online access: 16/11/2015.

<sup>233</sup> *Ibidem*.

<sup>234</sup> *Ibidem*.

<sup>235</sup> *Ibidem*.

point (e), the UN clarifies that “any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts is brought to justice”.<sup>236</sup> The language used is mostly mandatory,<sup>237</sup> so the States that signed the document are compelled to accomplish what they have been asked, in this case the fact that any convicted should face a trial, which is also a basic assumption of the democratic values, no *ultra-vires* treatment.<sup>238</sup> Then in point (g)<sup>4</sup> the SC noted “with concern the close connection between international terrorism and transnational organized crime, illicit drugs, money-laundering, illegal arms trafficking, and illegal movement of nuclear, chemical, biological and other potentially deadly materials, and in this regard emphasizes the need to enhance coordination of efforts on national, sub-regional, regional and international levels”.<sup>239</sup> In order to respond to those connected dangers, the SC decreed the creation of the UN Counter-Terrorism Committee,<sup>240</sup> to which the States should report. This special task force has become one of the main instruments in the struggle against terrorism thanks to the enforcement of some practical and technical measures like periodical country measures, provision of technical assistance, delivery of regular country reports, the encourage of best practices and the organization of special meetings where the problems could be analyzed in details.<sup>241</sup> The work of this Committee has been reinforced with the establishment of the Counter-Terrorism Committee Executive Directorate (CTED) with the UN SC 1535/2004, adopted at the 4936<sup>th</sup> meeting on the 26 of March 2004.<sup>242</sup> The Directorate had to monitor on the implementations of Resolution 1373/2001, giving its help to the countries that would require it to modify their judicial systems. Its mandate has been extended until the end of 2017 to better coordinate the multiple efforts of the MS.<sup>243</sup> However, in this

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<sup>236</sup> *Ivi*, p. 2.

<sup>237</sup> Conte, op. cit., p. 55.

<sup>238</sup> *Ibidem*.

<sup>239</sup> UN Resolution 1373/2001, p. 2.

<sup>240</sup> Conte, op. cit., p. 53.

<sup>241</sup> UN Resolution 1373/2001, p. 3.

<sup>242</sup> SC Res 1535, UN SCOR, 4936<sup>th</sup> Mtg, UN DOC S/RES/1535/2004.

<sup>243</sup> UN SC Resolution 1535/2004,

paper the terrorists were not addressed with this nomenclature, but they were defined as non-state actors,<sup>244</sup> as a person or a body which is not acting under the legal authority of a State while executing actions which would fall under the competences of the resolution.<sup>245</sup> These non-state actors are included in some particular lists.<sup>246</sup> This expression is not very clear since it includes all the subjects that cannot be figured as States in the strict sense, independently from their status of legal subjects.<sup>247</sup> Since the concept covers realities that go from the governmental organizations to the organized crime,<sup>248</sup> it was too indefinite to contrast efficiently the menace. Probably, one of the intentions of the Council was to pinpoint legal and physical persons who could not be associated with a State organ.<sup>249</sup>

Subsequently, the SC adopted UN SC Resolution 1566/2004 at its 5053<sup>rd</sup> meeting on the 8 of October 2004.<sup>250</sup> This Resolution need to be considered the first one, between the multiple documents the UN published in these previous years, to actually contain a possible definition of terrorism. The MS were deeply concerned about the increasing amount of victims caused by the terrorist attacks, as well as by the escalation of intolerance and extremism around the world, so they prepared a new declaration of intents. The SC assured another time that “any measures taken to combat terrorism comply with all their obligations under International Law, and should adopt such measures in accordance with International Law, in particular international human rights, refugee, and humanitarian law”.<sup>251</sup> However, even if the MS assented to this statement, there was still a lot of confusion apropos of the problem of how to

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[http://www.un.org/en/ga/search/view\\_doc.asp?symbol=S/RES/1535\(2004\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1535(2004)), p. 1. Online access: 17/11/2015

<sup>244</sup> Sossai, op. cit., p. 41.

<sup>245</sup> *Ibidem*.

<sup>246</sup> *Ibidem*.

<sup>247</sup> *Ibidem*.

<sup>248</sup> *Ivi*, p. 42.

<sup>249</sup> *Ibidem*.

<sup>250</sup> SC Res 1566, UN SCOR, 5053th Mtg, UN DOC S/RES/1566/2004.

<sup>251</sup> UN SC Resolution 1535/2004, p. 1.

consider these terrorist acts. Should they be enlisted fully under the IHL or there was the need to create a different juridical category?

Nevertheless, with regard to the definition, this Resolution “recalls that criminal acts, including against civilians, committed with the intent to cause death or serious bodily injury, or taking of hostages, with the purpose to provoke a state of terror in the general public or in a group of persons or particular persons, intimidate a population or compel a government or an international organization to do or to abstain from doing any act, which constitute offences within the scope of and as defined in the international conventions and protocols relating to terrorism, are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature, and calls upon all States to prevent such acts and, if not prevented, to ensure that such acts are punished by penalties consistent with their grave nature.”<sup>252</sup> These resolutions put into being the 1566 Working Group which recommended practical measures against terrorists, explaining also the possibility to establish a series of compensations for the victims.<sup>253</sup> Actually their mandate seems to be under the tasks of the Counter-Terrorism Implementation Task Force (CTITF).<sup>254</sup>

The UN SC Resolution 2133/2014, one of the newest before the current developments, was adopted by the SC at its 7101<sup>st</sup> meeting on the 27 of January 2014.<sup>255</sup> After reasserting that the UN consider the threat posed by the terrorist attacks a menace to international peace and security,<sup>256</sup> the MS added that these activities are “unjustifiable regardless of their motivations, *whenever* and by

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<sup>252</sup> UN Resolution 1566/2004, [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=S/RES/1566\(2004\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1566(2004)), p. 2. Online access: 16/11/2015.

<sup>253</sup> Conte, op. cit., p. 65. SC Res 1566, UN SCOR, 5053th Mtg, UN DOC S/RES/1566/2004, paras 9 and 10.

<sup>254</sup> *Ivi*, p. 66.

<sup>255</sup> SC Res 2133, UN SCOR, 7101th Mtg, UN DOC S/RES/2133/2014.

<sup>256</sup> UN SC Resolution 2133/2014, [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=S/RES/2133%20\(2014\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2133%20(2014)). Online access: 17/11/2015.

whomsoever committed.”<sup>257</sup> In addition to this, the UN was worried both by the intensification in the kidnappings and hostage-takings by al-Qaeda and ISIS and by the massive use of new technologies, especially Internet, for “the purposes of recruitment and incitement to commit terrorist acts, as well as for the financing, planning and preparation of their activities.”<sup>258</sup> So, because of such worries the SC called the signatories states to “prevent terrorists from benefiting directly or indirectly from ransom payments or from political concessions and to secure the safe release of hostages”,<sup>259</sup> and the UN Counter terrorism bodies were demanded to fully provide intelligence to other similar offices or regional bodies.<sup>260</sup>

Lately, precisely on 20<sup>th</sup> November 2015, the major attacks on Paris compelled the SC to discuss about the enforcement of a new document, so in its 7565<sup>th</sup> meeting the UN SC Resolution 2249/2015 was issued. Thanks to this Resolution it is possible to envision the changes that the definition of terrorism has proposed for the contrast of the terrorist organizations which, with the creation of the Islamic State, entered in a new dimension. In the fourth chapter I will report the contents of the last Resolution released on December 2015. In here the MS agreed on condemning unequivocally the barbaric methods used by ISIS, adding that they reprobate “its eradication of cultural heritage and trafficking of cultural property, but also its control over significant parts and natural resources across Iraq and Syria”<sup>261</sup> and, more importantly, they recognize the preoccupations provoked by the presence of the foreign fighters “whose threat affects all regions and Member States, even those far from conflict zones, the Islamic State in Iraq and the Levant (ISIL, also known as Da’esh), constitutes a global and unprecedented threat to international peace

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<sup>257</sup> *Ibidem.*

<sup>258</sup> *Ibidem.*

<sup>259</sup> *Ibidem.*

<sup>260</sup> *Ibidem.*

<sup>261</sup> UN, Meetings Coverage and Press Releases, *Security Council ‘Unequivocally’ Condemns ISIL Terrorist Attacks, Unanimously Adopting Text that Determines Extremist Group Poses ‘Unprecedented’ Threat*, 20 November 2015, <http://www.un.org/press/en/2015/sc12132.doc.htm>. Online access: 23/11/2015.

and security”.<sup>262</sup> They urged the finding of a solution since “the situation will continue to deteriorate further in the absence of a political solution to the Syrian conflict.”<sup>263</sup> The SC finally called upon the MS to take all necessary measures “on the territory under the control of ISIL also known as Da’esh, in Syria and Iraq, to redouble and coordinate their efforts to prevent and suppress terrorist acts committed specifically by ISIL as well as ANF, and all other individuals, groups, undertakings, and entities associated with Al-Qaida, and other terrorist groups, as designated by the United Nations Security Council.”<sup>264</sup> The values of the UN Charter are recalled another time to remain the core point of the WoT, but the vagueness of these means the MS could resort to, could lead to misinterpretation, overacting and abuses of International Law and IHL. During a traditional conflict some specific methods are usually banned, but in this fighting apparently there is no restraint.<sup>265</sup> During this UN meeting coverage the SC determined the priority to defeat such a violent threat to international peace and security posed by the existence of the Islamic State.<sup>266</sup> The French delegate François Delattre signaled that after the attacks in Paris the European Union recognized the exceptional danger posed by these terrorists so France obtained the activation of the EU solidarity clause,<sup>267</sup> he added also that the defeat of terrorism could be definitive only if it is matched with a political transition.<sup>268</sup> The Russian representative, Vitaly Churkin, voted for the creation of an anti-terrorism front to eradicate the deep root of terrorism, while the U.S. representative Michele Sison continues saying that it is essential to chock all the supports to these terrorist organizations, in particular funds and arms

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<sup>262</sup> *Ibidem.*

<sup>263</sup> *Ibidem.*

<sup>264</sup> *Ibidem.*

<sup>265</sup> *Ibidem.*

<sup>266</sup> *Ibidem.*

<sup>267</sup> *Ibidem.* The solidarity clause introduced by Article 222 TFUE provided the option for the countries of the EU to act jointly, to prevent the terrorist threat in the territory of a EU country and to provide assistance to a UE MS after a natural or man-made disaster. This clause was implemented following the terrorist attacks in Madrid in March 2004. In eur-lex.europa.eu.

<sup>268</sup> *Ibidem.*

supply.<sup>269</sup> She called upon the Council to support a political process in Syria in order to establish a non-sectarian and inclusive government, as the U.S. was doing with the Iraqi counterpart.<sup>270</sup> The statement of the Venezuela representative, Rafael Darío Ramírez Carreño, raises a particular concern since he basically agreed with Putin's idea not to discriminate between good and bad terrorist.<sup>271</sup>

### 2.3 European Legal Framework

Next to the action of the United Nations it is essential to consider the moves the European Union task both to implement the UN Resolutions and to tighten the effectiveness of its security area. The approaches of the EU differs in some points from the ones of the United Nations, but for the majority the documents that have been assembled and the actions undertook by the two organizations do not differ in the essence.

In the Council Framework Decision 2002/475/JHA of the 13 of June 2002,<sup>272</sup> established after the UN SC Resolution 1373/2001. The EU called to mind that its body is founded on the universal values of human dignity, liberty, equality, solidarity, respect of human rights and fundamental freedoms.<sup>273</sup> This text was created under the respect both of the European Convention on Protection of Human Rights, the IHL and other similar instruments of International Law.<sup>274</sup> Considering that almost all the MS of the EU are also MS of the UN, they are double-jointed under this double amount of declarations they have signed. The EU agreed on the fact that terrorist acts could damage a State or an international organization through the use of the intimidation

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<sup>269</sup> *Ibidem.*

<sup>270</sup> *Ibidem.*

<sup>271</sup> *Ibidem.*

<sup>272</sup> 2002/475/JHA.

<sup>273</sup> Council Framework Decision 2002/475/JHA,

<http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32002F0475&from=EN>. Online access: 07/12/2015.

<sup>274</sup> *Ibidem.*

against its populaces, but it specified also that the actions undertaken to destabilize a country or an organization usually are aimed at targeting its “fundamental political, constitutional, economic or social structures”.<sup>275</sup>

Throughout the presence of this statement, Europe recognizes openly the great mutuality of those aspects in the social construction of the human coexistence. When a terrorist organization spreads uncertainty it provokes an increase of fear and rage in the mass, that could undermine the milestones of the civil society. Later on, the FD extends the possibility to prosecute the terrorist actions when they destroy “a Government or public facility, a transport system, an infrastructure facility, including an information system, a fixed platform located on the continental shelf, a public place or private property likely to endanger human life or result in major economic loss, seizure of aircraft, ships or other means of public or goods transport.”<sup>276</sup> Besides, it followed an obvious condemnation of the use, manufacturing, possession, acquisition or transportation of any nuclear, biological or chemical weapon and of dangerous substances that could endanger the human life and the basic living facilities.<sup>277</sup>

This EU FD aligned itself with the UN on the reprimand of the funding for terrorist organizations and the need to adapt every MS legal body to the new international agreements that have been signed, principally on the imprisonment of the perpetrators.<sup>278</sup> Article 9 of the FD compelled the MS to intervene both when the offence is wholly committed on their territories and when it is partially committed,<sup>279</sup> so the MS may extend their jurisdiction if the offence “is committed on board of a vessel flying its flag or an aircraft registered there, the offender is one of its nationals or residents, the offence is committed for the benefit of a legal person established in its territory, the offence is committed against the institutions or people of the Member State in

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<sup>275</sup> *Ibidem.*

<sup>276</sup> *Ibidem.*

<sup>277</sup> *Ibidem.*

<sup>278</sup> *Ibidem.*

<sup>279</sup> *Ibidem.*

question or against an institution of the European Union or a body set up in accordance with the Treaty establishing the European Community or the Treaty on European Union and based in that Member State.”<sup>280</sup> They are compelled to judge the defendant or they had to extradite him to his native country.<sup>281</sup> In order to control the effectiveness of the preventive and security policies, every MS has the task to proffer regularly to the General Secretariat of the Council a pamphlet with an analysis of the implications which have already occurred and of the weak points they need to rectify.<sup>282</sup>

On 28<sup>th</sup> November 2008 the European Council released an amendment to the previous FD, enumerated as FD 2008/919/JHA. In here it is reminded that the Hague Program on strengthening of freedom, security and justice, adopted in 2004,<sup>283</sup> requires the MS to focus not only on the internal security but on the security of the Union as a whole.<sup>284</sup> They should also work to reduce the dissemination of recruitment materials which might incite new fighters to join the battle.<sup>285</sup> However, the most important part of this decision are the amendments to the purposes that were to be criminalized. The first edit concerns Article 3, where the offences linked to terrorist activities were modified as follow: the MS should outlaw some behaviors like public provocations to commit a terrorist offence (that relates to the possibility to make available the distribution of materials and messages to the general public),<sup>286</sup> the recruitment for terrorism and the training for terrorism,<sup>287</sup> that means that

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<sup>280</sup> *Ibidem.*

<sup>281</sup> *Ibidem.*

<sup>282</sup> *Ibidem.*

<sup>283</sup> Council Framework Decision 2008/919/JHA,

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:330:0021:0023:EN:PDF>, pg 1. Online access: 07/12/2015. The objective of The Hague program is to improve the common capability of the Union and its Member States to guarantee fundamental rights, minimum procedural safeguards and access to justice, to provide protections in accordance with the Geneva Conventions on Refugees and other international treaties to person in need.

<sup>284</sup> *Ibidem.*

<sup>285</sup> *Ibidem.*

<sup>286</sup> *Ibidem.*

<sup>287</sup> *Ibidem.*

every trainers who provide instruction to the making or use of explosives,<sup>288</sup> firearms or other weapons or substances should be integrated and judged.<sup>289</sup> The theft, the extortion on the drawing up of false administrative documents aggravated the previous charges.<sup>290</sup>

On 11<sup>th</sup> March 2014 the European Parliament in accordance with the European Council established and Instrument that would contribute to stability and peace through the approval of Regulation (EU) No. 230/2014.<sup>291</sup> This ordinance recalled a communication released on 2008 entitled "*EU Internal Security Strategy in Action: Five steps towards a more secure Europe*", where was urged a better cooperative policy with third countries and regional bodies to combat multiple threats, as terrorism. Moreover, on the 8 of December 2008, the Council approved a comprehensive approach to the implementation of UN SC Resolutions 1325/2000 and 1820/2008 on women, peace and security, recognizing the close links that exists between the issues of peace, security, development and gender equality.<sup>292</sup>

The EU strategic Framework and Action Plan on Human Rights and Democracy, adopted by the Council on 25<sup>th</sup> June 2012, permitted the EU to devise another time the development of an operational guidance to ensure that the human rights should be taken into consideration in the design of counter-terrorism assistance measures.<sup>293</sup> Article 3 is painfully topical after the Paris attacks, since the Union shall provide technical and financial assistance in case of exceptional and unforeseen situations like an emerging crisis, that is posing a threat to democratic order, its laws, the human rights of the populations of the MS and to their safety. The MS should also intervene when a situation threatens

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<sup>288</sup> *Ibidem.*

<sup>289</sup> *Ibidem.*

<sup>290</sup> *Ivi*, p. 3.

<sup>291</sup> Regulation (EU) No 230/2014,

<http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1447755302195&uri=CELEX:32014R0230>, online access: 17/11/2015.

<sup>292</sup> *Ibidem.*

<sup>293</sup> *Ibidem.*

to escalate into an armed conflict or could destabilize one or more countries.<sup>294</sup> The regulation continues asserting that “with regard to assistance to authorities involved in the fight against terrorism, priority shall be given to supporting measures concerning the development and strengthening of counter-terrorism legislation, the implementation and practice of financial law, of customs law and of immigration law, the development of law-enforcement procedures which are aligned with the highest international standards and which comply with International Law, the strengthening of democratic control and institutional oversight mechanisms, and the prevention of violent radicalism.”<sup>295</sup> This ordinance has been reinforced by the Regulation (EU) No. 513/2014 of 16<sup>th</sup> April 2014, which created an Internal Security Fund,<sup>296</sup> an instrument for the financial support for police cooperation, preventing and combating crime, and crisis management. There are also other voices to which these funds are oriented like the exchange and access to intelligence information, the prevention and combating of terrorism, the preparedness for emergency situations and the defence of infrastructures vitals to the right security of the society.<sup>297</sup>

## 2.4 The Criminalization of Terrorism

The International Criminal Law (ICL) is a body of international rules designed to proscribe certain conduct, authorizing and imposing upon the States the obligation to prosecute and punish the criminal ones, and it also regulates the proceedings before international criminal courts. Ben Saul, professor of International Law and Australian Research Council Future Fellow, offered the premise that choosing the criminal branch as the referring

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<sup>294</sup> *Ibidem.*

<sup>295</sup> *Ibidem.*

<sup>296</sup> *Ibidem.*

<sup>297</sup> Regulation (EU) No 513/2014,

<http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1447755410093&uri=CELEX:32014R0513>. Online access: 17/11/2015.

institution to judge the terrorists, permit a restraint approach to these crimes, instead of relying on more hawkish solutions like preventive detention, control orders or military force.<sup>298</sup> Moreover, the flexibility and the adaptability of the criminal law is the best to respond to contemporary terrorist violence. Since at the beginning the *Jus in Bello* only addressed states as belligerent parties, the individual was excluded, and his conduct was attributable to the State he was citizen.<sup>299</sup> Later on, after viewing that there was an amount of individuals who were directly accused of international criminal acts, the ICC made the single directly and personally accountable.<sup>300</sup> The ICC derives its origins from the IHL, the Human Rights Law and the different national criminal law, so we can say that the ICL is a sort of hybrid branch of law impregnated with notions which derives from the aforementioned sectors.<sup>301</sup> The ICL is divided in substantive law, that is the set of rules indicating what acts are prohibited and what are their consequences, and procedural criminal law, which set the rules of international procedures, in other words it regulates the behavior of the states trying to solve the possible problems of interests between different sovereign entities.<sup>302</sup> Like every international body, it is ruled by the principle of specialty,<sup>303</sup> so it could act only within the limits and the powers the sovereign states gave it.<sup>304</sup> The ICL criminalizes those conducts that damage the collective interests and have a strong transnational dimension, so the basic point of the international treaties is to agree on contrasting a particular criminal conduct

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<sup>298</sup> B. Saul, *Criminality and Terrorism*, in Counter-Terrorism, The Security Imperative and the Rule of Law, A.M. Salinas de Friás, K.L.H. Samuel and N.D. White, eds., Oxford University Press, Oxford, 2010, p. 133.

<sup>299</sup> Cassese, op. cit., p. 4.

<sup>300</sup> *Ibidem*.

<sup>301</sup> *Ivi*, p. 8.

<sup>302</sup> *Ibidem*.

<sup>303</sup> The *Doctrine of Specialty* is a principle of International Law that is included in most extradition treaties, whereby a person who is extradited to a country to stand trial for certain criminal offenses may be tried only for those offenses and not for any other pre-extradition offenses. Once the asylum state extradites an individual to the requesting state under the terms of an extradition treaty, that person can be prosecuted only for crimes specified in the extradition request. This doctrine allows a nation to require the requesting nation to limit prosecution to declared offenses. US courts have been divided on allowing standing to assert the doctrine when the other nation has not explicitly or implicitly protested certain charges.

<sup>304</sup> *Ivi*, p. 11.

providing certain heads of criminal jurisdiction and ensuring the mutual extradition of the alleged offenders.<sup>305</sup> A proper international crime is the result of the cumulative presence of the following elements:

- 1) The violation of rules of Customary International Law as well as of treaty provisions.<sup>306</sup>
- 2) These rules are intended to protect values that are partaken by the whole international community.<sup>307</sup>
- 3) As a consequence of the other two points, it exists a universal interest in repressing those crimes.<sup>308</sup>
- 4) If the perpetrator has acted in an official capacity as a *de jure* or *de facto* state official, the State is banned from claiming the immunity from the civil or criminal jurisdiction of foreign states.<sup>309</sup>

Usually, the national legal systems tend to embrace the principle of legality<sup>310</sup> for the criminalization of conducts; *nullum crimen, nulla poena sine lege*. The ICL splits in two branches, the first is the subjective justice where the legal order must primarily aim at prohibiting and punishing any conduct that is socially harmful or causes danger to society even if the act wasn't legally criminalized at the moment it is taken.<sup>311</sup> The other branch is the "strict legality", which postulates that a person may only be held criminally liable and punished only for acts that were already considered as criminal offences under the applicable law.<sup>312</sup> In order to safeguard the citizens from both arbitrary

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<sup>305</sup> *Ivi*, p. 19.

<sup>306</sup> *Ivi*, p. 20.

<sup>307</sup> *Ibidem*.

<sup>308</sup> *Ibidem*.

<sup>309</sup> *Ibidem*.

<sup>310</sup> The *principle of legality* is designed to guarantee the primacy of the law in criminal procedure, so that neither state prosecution nor defendants are exposed to arbitrary bias. It assures that no defendant may be punished arbitrarily or retroactively by the state. This means that a person cannot be convicted of a crime that has never been publicly announced, nor by a law that is excessively unclear, nor by a penal law that is passed retroactively to criminalize an action that was not criminal at the time it occurred. It requires judges to always lean in favor of the defendant when they interpret statutes, and forbids pronouncement of guilt without a clear and reasonable justification of this sentence. (Conte, op. cit).

<sup>311</sup> *Ivi*, p. 22-23.

<sup>312</sup> *Ibidem*.

judgement and excessive judicial discretion, the principle of *favor rei* is used.<sup>313</sup> In other words a criminal offence should be provided only in written form by the legislator, the criminalization must be as specific and clear as possible, criminal rules may not be retroactive and the resort to analogy is prohibited.<sup>314</sup>

However, it wasn't simple to refer to this section of the law because it raised some critical points. Firstly, the vagueness and the over inclusive definitions gave serious concerns about freedom from retroactive criminal punishment under the international human rights law.<sup>315</sup> Terrorism has also attracted disproportionate penalties and they have been also related to procedural unfairness for the single.<sup>316</sup> Furthermore, the speech-related offences concerning the incitement, the advocacy or the glorification of terrorism raised concerns about the respect of the freedom of expression, religion and non-discrimination.<sup>317</sup> In the past, terrorism was prosecuted as a crime against the conventional security or public order, since it had a smaller dimension, plus some wanted to treat it as a conventional crime to de-emphasize its political aspects and the creation of possible political martyrs.<sup>318</sup> It was UN Resolution 1373/2001 which recognized the international flavor of contemporary terrorism, this was done mostly to condemn and stigmatize terrorism beyond its normal criminal characteristics, eliminating the jurisdictional lacunae that have been identified during the years.<sup>319</sup> According to every international body of law, even the criminal one, a conduct to be criminalized need both a subjective and an objective element. Terrorism to be considered of international concern needs to have transboundary effects or threatens the peace, the security and the well-being of the world, violating the natural or moral law, shocking the conscience of the humanity.<sup>320</sup>

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<sup>313</sup> *Ibidem*.

<sup>314</sup> *Ivi*, p. 24.

<sup>315</sup> Saul, op. cit., 133.

<sup>316</sup> *Ibidem*.

<sup>317</sup> *Ivi*, p. 134.

<sup>318</sup> *Ivi*, p. 134-135.

<sup>319</sup> *Ivi*, p. 136.

<sup>320</sup> *Ibidem*.

When we speak of transnational or international terrorism we must be sure that the conduct is transnational in nature, that is not limited to the territory of one state and without foreign elements.<sup>321</sup> Another objective element that is necessary is the victim, in accordance with the already mentioned definition of terrorism given by the international bodies.<sup>322</sup> The subjective element, instead, is made up of the goal of a particular organization and, in the case of terrorism, it has always the political aim to compel a powerful actor to do something it wasn't present in its planning injecting a certain level of fear and anxiety in the general public.<sup>323</sup> This represents the so called *dolus specialis* which is politically expressed in the sentence "with the intent" that embodies the consciousness of the perpetrator in committing a social harm, completing the *dolus generalis*.<sup>324</sup>

One of the problems linked to the criminalization of terrorism is its status during peace times. In fact, acts of terrorism during an armed conflict are already considered unlawful under the International Humanitarian Law and they could be prosecuted as war crimes or crimes against humanity, either in national courts and in international tribunals.<sup>325</sup> The Fourth Geneva Convention of 1949 and the Two Protocols of 1977 ban terrorism in an armed conflict both if it is perpetrated by an occupying power, a belligerent, by a civilian or an organized groups.<sup>326</sup> So, it was disputed if it was correct to charge with mere membership the affiliates of a terrorist organization.<sup>327</sup> According to Article 8, the use of terror against civilians could be contemplated as war crime. Terrorism could be also a crime against humanity whether it is perpetrated in time of war or peace. To be considered a crime against humanity an act should provoke murder, great suffering, serious injury to physical or psychological

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<sup>321</sup> Cassese, op. cit., p. 150.

<sup>322</sup> *Ibidem*.

<sup>323</sup> *Ivi*, p. 151.

<sup>324</sup> De Vido, op. cit., p. 6-7.

<sup>325</sup> Saul, op. cit., p. 142.

<sup>326</sup> Cassese, op. cit., p. 154.

<sup>327</sup> *Ibidem*.

health under the form of torture, rape or even enforced disappearance of a person.<sup>328</sup> Even the State could commit a crime against humanity as we think about the phenomenon of the extraordinary renditions which were orchestrated by the U.S. and their allies. A coerced extradition is forbidden, especially with the “authorization, support or acquiescence of a State or a political organization, followed by a refusal to acknowledge the deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time.”<sup>329</sup> Unfortunately, the strong point of the criminal law sometimes has been misused, particularly since the 9/11, when extended periods of pre-charge or pre-trial detention have been imposed over the detainees in fact, they generally had limited access to legal representation and suspension or limitation of habeas corpus.<sup>330</sup> The criminalization of terrorism is surely controversial, since from the one side there is the urgency to openly condemn a conduct that is perceived as harmful but, at the same time, it could be dangerous to define it too rigorously. For instance, if we pledge to be terrorism any kind of violence against the State without examining its contents, we may strip the population of the possibility to resist with the use of force against an oppressive regime.<sup>331</sup> Some scholars may argue that there are other ways that is possible to follow, as the one of the civil disobedience where the focus is on non-violent forms of protesting. Nonetheless, Nelson Mandela himself was called a terrorist and later on was awarded with the Nobel Peace Prize,<sup>332</sup> so it is important to emphasize the political influence that could lead to a change of public perceptions.<sup>333</sup> However, despite the fact that some movement are labelled as terrorist even if are fighting for a just cause, what is universally agreed on is that the use of non-discriminated violence is not an

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<sup>328</sup> *Ibidem.*

<sup>329</sup> *Ivi*, p. 157.

<sup>330</sup> Saul, *op. cit.*, p. 163.

<sup>331</sup> *Ivi*, p. 137.

<sup>332</sup> Conte, *op. cit.*, p. 8.

<sup>333</sup> *Ibidem.*

accepted tactic. Another important observation was made by Saul and it is related to the very nature of the punishment. More broadly, the Western societies questioned the validity of the correctional system, wondering if its rehabilitation find aim is being accomplished. Both in the second part of this chapter and in the following one I will give some proofs of the fact that an improper use of the imprisonment could have worst consequences than if it was absent. For the moment I will report that Saul said that an ideologically terrorist offender, may experience the punishment as a success of its disturbing action and at the same time he would reject instantly the very deterrent power the governments gave the prisons, because they would be the expression of a system he does not' recognize as legitimate.<sup>334</sup> Sentences that are too punitive may be counter-productive, since they could lead to a deeper radicalization of the subject.<sup>335</sup> Indeed, most of the foreign Islamic fighters who attacked on 13<sup>th</sup> November had experienced a period of detention.

## 2.5 Who are Foreign Fighters?

I have just mentioned the facts occurred in Paris to demonstrate that the problem of terrorism is much more pronged than ever, embracing the old problem of foreigners who joined a conflict abroad. Indeed, the majority of the perpetrators were European citizens and they symbolized the foreign fighters who fled for a terrorist training and then came back to Europe.<sup>336</sup> After a few days from the events, the French police said they found a Syrian passport near the body of one of the terrorists who were killed during the repression, but at the end it was a fake one.<sup>337</sup> The public opinion was convinced to confront one of the refugees the European Union hosted in the latest months but at the end the reality was much more simple. The foreign fighters are not a new presence

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<sup>334</sup> *Ivi*, p. 138.

<sup>335</sup> *Ivi*, p. 139.

<sup>336</sup> BBC News, *Paris attacks: Who were the attackers?*, 14 January 2016, <http://www.bbc.com/news/world-europe-34832512>. Online Access: 17/01/2016.

<sup>337</sup> *Ibidem*.

in the history of the warfare, they changed many names during the ages but today they have assumed a totally new format. Why does a foreign citizen should have the intention to enlist in a terrorist organization which has the base in a faraway country? Similarly to the questions posed on the reasons why a human being should join a terrorist organization in his own country, the answers reveal to be complex and incomplete. Two particular scholars, David Malet, Senior Lecturer in International Relations at the University of Melbourne, and Thomas Hegghammer, Senior Research Fellow at the Norwegian Defence Research Establishment in Oslo and Non-Resident Fellow at the New York University, studied the origins of the phenomenon, stating that its seeds lay on the Medieval times.

First and foremost, we need to take into consideration that, apparently, in our contemporary world transnational insurgencies have become more prevalent than other types of traditional conflicts.<sup>338</sup> As it was already stated in the first chapter, the Westphalian system modified the structure of the worldwide political order and starting from that moment, the nation-states claimed to own the monopoly of the legitimate use of force. Forasmuch as they unilaterally exercise this right, they act in order to disclaim any similar act committed by the citizens and that could weaken their strategic and diplomatic interests.<sup>339</sup> If we keep in mind this assumption, it is obvious to recognize that we have passed from a traditional war style, where different powers struggled against each other for territorial domination, to a more subtle fight between citizens and their states for the respect of their rights. Unfortunately, in the recent years a lot of steps have been taken to reverse this process and the current speeches invoking war against the Islamic State surely are not encouraging.

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<sup>338</sup> D. Malet, *A History of Foreign Fighters*, in *Foreign Fighters. Transnational Identity in Civic Conflicts*, Oxford University Press, Oxford, 2013, p. 12.

<sup>339</sup> *Ibidem*.

Malet described the foreign fighters as “non-citizens of conflict states who join insurgencies during civil conflicts”.<sup>340</sup> This explanation is not really exhaustive but it gives a first frame. Hegghammer rebutted that in the political domain, except for Malet’s attempt, a real definition of foreign fighters is not present.<sup>341</sup> He specified that they are considered as an intermediate category situated between local rebels and international terrorists.<sup>342</sup> Inspiring himself from Malet’s definition, Hegghammer went further, so he remarked that a foreign fighter should be seen as an agent who joined a group operating within the confines of an insurgency and who lacks any citizenship of the conflict state or kinship to the warring factions.<sup>343</sup> Moreover, he does not own any affiliation to an official military organization and he is unpaid.<sup>344</sup> This categorization is aimed at excluding from the definition the mercenaries (who fight for profit), the soldiers (who are enlisted in a regular army), the returning diaspora members (who are people settled abroad for different reasons) and the exiled rebel (who were political fighters).<sup>345</sup> Evidently, Hegghammer tried to ground his theory on the percentages of the contemporary foreign fighters, but the analysis of the political violence is not an exact science. It is possible to gather information through the use of the intelligence services, but there will always be a number of fighters who belong to the previous mentioned categories.

The literature dedicated to this field of study has even questioned the history of the civil wars. In the great majority of the past civil conflicts, the governments used to hire mercenaries who would fight for personal profits. Usually they were offered the citizenship of that country or economic gains.<sup>346</sup> Only a part of them were martyrdom-seeking fundamentalists who were

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<sup>340</sup> *Ivi*, p. 4.

<sup>341</sup> T. Hegghammer, *The Rise of Muslim Foreign Fighters: Islam and the Globalization of Jihad*, International Security, Volume 35, Number 3, Winter 2010/11, The MIT Press, p. 55.

<sup>342</sup> *Ibidem*.

<sup>343</sup> *Ivi*, p. 58.

<sup>344</sup> *Ibidem*.

<sup>345</sup> *Ibidem*.

<sup>346</sup> Malet, *Why We Fight (Elsewhere)*, op. cit., p. 3.

fighting for a cause.<sup>347</sup> The things changed inherently after the Afghan War, held between 1978 and 1992. Conventionally, the scholars agree on the fact that a civil war bursts out in a particular country because of the presence of two combined factors, which are resumed in a theory called "*greed and grievances*".<sup>348</sup> One of the most praised models of this postulate is the Collier-Hoeffler, which declared that avidity is a greater motivator than grievance but, at the same time, the demand of rebels is a consequence of the presence of some significant grievance, so the more are the enrolled the greater is the importance of the rebellion.<sup>349</sup> The core point of this paradigm is that the mobilization for a civil war is always the effect of a rational and self-interested activity.<sup>350</sup> Hegghammer said further that an objective grievance is not enough to make people feel compelled to intervene in a foreign conflict.<sup>351</sup> The presence of a subjective grievance, instead, could explain more completely this enlistment.<sup>352</sup> He put bluntly that if an underlying ideology is scarce in offering nonmaterial selective incentives like a new social status or an afterlife reward, the ranks of the recruited are thinner.<sup>353</sup>

Could the local grievances play a role in the luring of the foreign fighters? The answer is partly, they could have some weight for a limited number of enrolled but in that case the recruiters need to present the facts in a more attractive way than they do with the locals.<sup>354</sup> Doubtlessly, a single or even a foreign government are most likely to intervene in a foreign conflict when the bet at stake concerns the actual control of the mechanisms of power that are able to modify the social structures of a particular reality.<sup>355</sup> A stranger will not find too much benefits in involving in a struggle between two different

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<sup>347</sup> *Ibidem.*

<sup>348</sup> *Ibidem.*

<sup>349</sup> *Ibidem.*

<sup>350</sup> *Ibidem.*

<sup>351</sup> Hegghammer, *op. cit.*, p. 64.

<sup>352</sup> *Ibidem.*

<sup>353</sup> *Ibidem.*

<sup>354</sup> Malet, *A History of Foreign Fighters*, *op. cit.*, p. 5.

<sup>355</sup> *Ibidem.*

national political parties when he would have less to gain.<sup>356</sup> An outsider is more keen on stepping in when he perceives that the victors of a particular dispute will emulate its way of living, aligning themselves to the main interests of the supporter.<sup>357</sup> This kind of political controversy has already occurred in the XXth century military history, when the world split itself between backers and opponents of fascism during the Spanish Civil War.<sup>358</sup>

When we speak of political or ideological conflicts the identity problem come out inevitably. It is common knowledge that the single builds his own identity on the appraisals and the expectations of a precise community where he interacts. Even International Law is based on this assumption, since every single state undertakes the responsibility to respect an International Treaty or Convention on the presumption that the other partners will do the same, due to the fact that there is no global government that could enforce the law. Jesse and Williams insist on the fact that since the identity is socially constructed, the governments should implement policies to promote the consociation of the multitude, because a broader shared identity is less likely to trigger conflicts.<sup>359</sup> The problem with macro-identities came out when they are manipulated to put in place a conflict within different cultures. However, the greatest part of civilians aren't really interested in taking an active role in this battle because they lack the knowledge, the interest and the civil conscience to do that. So, when these "political activists" are in need to recruit, they resort to some charismatic figures who could use properly the right strategies to lure other people. For instance, one of the tools used by them is the psychological pressure used to make the single believes that he could be socially considered a straight human being only if he involves himself in charitable or altruistic activities, as

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<sup>356</sup> *Ibidem.*

<sup>357</sup> *Ibidem.*

<sup>358</sup> In that context, the sympathizers of fascism came from other countries to support Franco and the left-wing intellectuals thickened the International Brigades because they feared that the totalitarianism would rejoin in their societies. For that reason the Spanish Civil War could be considered the first ideological conflict of the contemporary age.

<sup>359</sup> *Ivi*, p. 7.

the society expect him to be.<sup>360</sup> In order to accomplish this task the recruiters will exploit their previous existing relationships to facilitate the engagement. Although Malet, analyzing the problem of the foreign fighters takes into account the importance of their transnational identities.<sup>361</sup> He wrote that transnationalism is “the process by which immigrants forge and sustain multi-stranded relations that link together their societies of origins and settlement.”<sup>362</sup> In this point of view the individual has to deal with multiple identities and he makes some efforts to make them dialogue without conflicts. This process put into light another problem linked to the uncertainties disseminated by the globalization process. The human being not only have to understand what is his place in the global order, but he needs to find a way to make different aspects of his soul to coexist peacefully. He employs the point of view of Tarrow to intrude a new vision, where he sustains that transnational activists are rooted cosmopolitans and among them there are some “birds of passage” who misuse the possibility to travel freely in another state to acquire particular skills they could then capitalize on the organization of violent campaigns in their home countries.<sup>363</sup> In these transnational advocacy networks these transnational activists stick together because they fell part of a greater community that share values which go behind the links of a particular state.<sup>364</sup> Malet is convinced that these transnational fighters originated from the diaspora communities where they could not reach a compromise with the modus vivendi of the new country.<sup>365</sup> In this way, they maintained hardline positions which permitted to them to be more flexible, so they could come back to the original values at any time, and they could be more susceptible to the luring of the recruiters.<sup>366</sup>

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<sup>360</sup> *Ivi*, p. 6.

<sup>361</sup> *Ibidem*.

<sup>362</sup> *Ivi*, p. 8.

<sup>363</sup> *Ibidem*.

<sup>364</sup> *Ibidem*.

<sup>365</sup> *Ibidem*.

<sup>366</sup> *Ibidem*.

On the other hand, the only fact to be part of a particular identity or culture is not enough reason to explain why some people decided to be lured in a particular movement. Customarily, the perfect way to involve the greatest amount of people is to put into action a sort of securitization process.<sup>367</sup> In other words, it is presented to a targeted audience a constructed existential threat which will require the creation of emergency procedures that otherwise could not be figured in a normal time.<sup>368</sup> Commonly, when a partaken danger is perceived, the interested actors unite to mobilize for the protection of a universal symbol. In order to collect the broadest number of fighters the danger need to be transnationalized, so the inventors of the ideology take an abstracted general idea and they attached it to a particular event, posing that situation as an example of how a particular quarrel, which has been generated in a specific place, is only a part of a broadest and worldwide plan.<sup>369</sup> It is possible to say that this is the counter-balance of the scapegoat strategy described in the first chapter, and it will be take into consideration with different flavors in the following sections. A step further is taken when the technique of the *frame bridging* is dust down, that is the attempt to link two or more ideologically connected notions to make them part of the same broader perspective.<sup>370</sup> Then, to make the idea more productive, the recruiter could play on fear to manipulate the emotions of the single in order to increase his self-defense instinct and, consequently, his aggressiveness.<sup>371</sup>

Basically, we could say that a contemporary insurgency need to include the broadest number of people to be successful, since the modern means of communication can permit this wide range. Then, if at a powerful advertising campaign it is possible to add a material territorial conquest, the success will be granted.<sup>372</sup> This will permit to the rebels, or terrorists or foreign fighter group,

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<sup>367</sup> *Ivi*, p. 10.

<sup>368</sup> *Ibidem*.

<sup>369</sup> *Ibidem*.

<sup>370</sup> *Ivi*, p. 11.

<sup>371</sup> *Ibidem*.

<sup>372</sup> *Ivi*, p. 12.

to gain a material effectiveness under International Law, because they would exert a real control. Moreover, from the point of view of a member of these specified organizations, if they are able to spread their message worldwide in distant locations they could demonstrate the strengthen of their network and they will have a greater influence. Since a new global consciousness has apparently been built, if the activists try to apply this sort of social constructionist approach they could instill the need to fight for a global cause even in the people who do not suffer directly from the oppression.<sup>373</sup>

Since civil conflicts differ from one another, also the foreign fighters correspond to different categories. Malet classified them to understand if they are more keen on meddling in ethnic or non-ethnic civil conflicts.<sup>374</sup> In the case of ethnic conflicts we could meet two types of warriors, the “diasporans”, who are co-ethnics and join the nationalists rebel side to advance common nationalist goals and the “liberationists”, who are non-coethnics but they want to fight to defend the same ideological symbols of the rebels.<sup>375</sup> On the side of non-ethnic conflicts, we could have the “encroachers”, who join a secessionist part to expand their own political influence on a neighboring territory, and the “true believers”, who partake the same ideological beliefs of the rebels, so they want to help them to guard their common traditional institutions.<sup>376</sup> According to the data, the rate of foreign fighters who participated in conflicts as liberationists is way higher than the diasporans and the true believers could be a greater danger than the encroachers. The latest civil conflicts that have been raised and that involved the Muslim society demonstrated some peculiar characteristics. As Hegghammer wrote, actually the foreign fighters seem to prefer to join only certain types of conflicts where the territory is under a particular political status, and this is mostly demonstrated by following detailed explanations of the Muslim foreign

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<sup>373</sup> *Ivi*, p. 14.

<sup>374</sup> Malet, *A History of Foreign Fighters*, in *Foreign Fighters. Transnational Identity in Civic Conflicts*, Oxford University Press, Oxford, 2013, p. 9.

<sup>375</sup> *Ibidem*.

<sup>376</sup> *Ibidem*.

fighters.<sup>377</sup> Secondly, he observed that the increased role of the religion in civil wars will contribute to the growth of the foreign fighters phenomenon. Indeed, in the recent years a lot of alleged true believers have increased in number in a variety of civil wars where the mujahideens have appeared.<sup>378</sup>

## 2.6 The Muslim Foreign Fighters

In our specific period, the foreign fighters community which raised controversies in the international order is the one related to the Islamic radicalization. In the first chapter I have written that there is a manipulation of the image of the Muslim community that can permit to the Western society to fortify itself. Unfortunately, also from the part of the Muslim recruiters there is a similar negative manipulation that has the object to make the recruited to see the Western society as an enemy. When they want to convince their fellow countrymen to take part in the hostilities they depict a nebulous apocalyptic situation in which their modus vivendi is under siege from the part of the Western world, so the only possible way to survive is to embrace weapons. Obviously, the image needs to be realistic enough to convince them. The attacks of the 13 of November 2015 seemed to the majority of the public as something that exploded out of nowhere, instead it has its roots in an old post-Cold War conflict that was inserted in the decolonization process. I'm referring to the Afghan Civil war. Malet labelled this conflict as a type 2, where a great amount of liberationists were fighting against the Soviet Union that invaded their lands.<sup>379</sup> The foreign fighters who have been trained for this conflict have become the trainers of the contemporary generations, who have gained the

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<sup>377</sup> *Ivi*, p. 11.

<sup>378</sup> *Ibidem*.

<sup>379</sup> D. Malet, *Afghanistan (1978-1992) and Beyond*, in *Foreign Fighters. Transnational Identity in Civic Conflicts*, Oxford University Press, Oxford, 2013, p. 2.

capability to model itself and to adapt to other conflicts in different parts of the world.<sup>380</sup>

The Afghans nationalists were backed up by a large number of supporters who come from other countries like Saudi Arabia, Malaysia, Africa and Western states. Partly they were encouraged by some of their governments, since different national interests were present and the politicians wanted to secure their profits through a military approach that could not be seen as to invasive.<sup>381</sup> The main State actors were the Soviet Union, the United States and the Arab States, all of the three had different reasons. The Soviet Union would grow in power and maintain the control over the territory, the United States feared a Communist infection of the Middle East, so they tried to contrast indirectly their rise with a massive propaganda in support of the mujahideens, calling them freedom fighters and heroic insurgents, and encouraging young people to enlist in the fighting lines.<sup>382</sup> In addition, the U.S. provided money, arms and a specialized discipline for the insurgents.<sup>383</sup> For instance, near Williamsburg, in Virginia, the CIA provided direct recruitment and training for the mujahideens.<sup>384</sup> On their side, the Arab countries promoted the fight to their citizens because they wanted to get rid of some thorny elements.<sup>385</sup> When the Soviets officially withdraw from Afghanistan, the Arab governments forbid to a part of these mujahideens to come back to their homes, because they were stigmatized as fanatics and they feared they could use the tactics they have learned to overthrow their rulers.<sup>386</sup> For example, Ayman Al-Zawahiri, one of the mastermind of the Al-Qaeda network, was released from prison on the order of the Egyptian government in 1980 to permit him to go fight in Afghanistan, even if he was captured in a *golpe* attempt. Moreover, the Arab

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<sup>380</sup> *Ibidem.*

<sup>381</sup> *Ibidem.*

<sup>382</sup> *Ivi*, p. 5.

<sup>383</sup> *Ibidem.*

<sup>384</sup> *Ivi*, p. 12.

<sup>385</sup> *Ibidem.*

<sup>386</sup> *Ibidem.*

States facilitated the recruitment on the hope to gain the favor of the United States and the domestic legitimacy to their power supporting the Islamic religion.<sup>387</sup> Hafez investigated the different types of foreign fighters who joined the Afghan War and he discovered that the early recruits were mostly young men in their twenties who went to Afghanistan mainly for five reasons: religious fulfilment, employment opportunities, adventure, safe haven or military training.<sup>388</sup> Only a few of them were effectively fighting against Communism so, contrarily to the Spanish Civil War, the political engagement was minor.<sup>389</sup> Alexander Lebed broadened the classification devising six categories: the patriots, who were fighting to acquire or regain a property, the religious fanatics, the mercenaries, the men who were fighting to earn enough money to afford a bride and the Afghans, who were fighting for their freedom.<sup>390</sup> Another important perspective shows that between these participants there were people who did not speak Arabic, people who come from a lower socioeconomic background and people who were bored wealthy Arabs looking for adrenaline.<sup>391</sup> However, the last group, that arrived between 1987 and 1993,<sup>392</sup> will become really important in the second phase of the foreign fighters evolution.

Those different categorizations demonstrate the variety and the complexity of the speculations concerning the reasons for the recruitment. It is not easy to find a unique solution when the causes are so variegated. Besides, the militias differed from one another for the degree of their sponsorship and the validity of their international reach. Hegghammer also remarked the previous observations of Ayaal noticing that Islam is politically heterogeneous, so we can have movements that try to oppose peacefully to an authoritarian regime or alien domination, and other that prefer to resort to terrorist tactics.

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<sup>387</sup> *Ivi*, p. 13.

<sup>388</sup> *Ivi*, p. 11.

<sup>389</sup> *Ibidem*.

<sup>390</sup> *Ivi*, p. 18.

<sup>391</sup> *Ibidem*.

<sup>392</sup> *Ibidem*.

The current foreign fighters phenomenon was originated in the 1970s when a populist pan-Islamism sought political relevance through the above mentioned apocalyptic propaganda. In order to recruit the best amount of fighters, the Islamic Community needed some barkers able to lure effectively the potential "clients". The most important one was Abdullah Azzam, a scholar of Islamic jurisprudence who joined the local branch of the Muslims Brothers and who prepared the ground for the following penetration.<sup>393</sup> The main content of his lectures was obviously focused, at first, on the need to save the Afghans from the infidel domination.<sup>394</sup> At a second thought he added that this threat was addressed to all Muslims, so they needed to reconquer their lands in order to defend and preserve their culture, even with an act of martyrdom if it was necessary.<sup>395</sup> During the Eighties, precisely in 1984 when Azzam left his work at the University to dedicate himself completely to his task of recruiter, he and his supporters travelled the world to gain the sympathy of the different Muslim communities, bringing with them some religious publications which bolstered the message of the common responsibility of all Muslims to take arms for their beloved brothers and sisters.<sup>396</sup> The Eighties signed an important moment because in this period the rich sheik Osama Bin Laden started to collaborate with Azzam, financing the movement and bringing in a few thousand of Saudi Arabian foreign fighters.<sup>397</sup> After the death of Azzam, Bin Laden and al-Zawahiri took his legacy and decided to modify a little bit the Islamist ideology he brought out from the tradition. They gave to this ideology a more modern aspect, preaching for a global jihad against all the Western World. So, on the 20 of August 1988 they announced the creation of the al-Qaeda organization, a military wing which aim was formally to serve Islam and protect its values.

The foreign fighters who were recruited by al-Qaeda started to refine their military training in other late Eighties/early Nineties conflicts in Bosnia, Serbia

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<sup>393</sup> *Ivi*, p. 7.

<sup>394</sup> *Ibidem*.

<sup>395</sup> *Ibidem*.

<sup>396</sup> *Ivi*, p. 8.

<sup>397</sup> *Ivi*, p. 14.

and Chechnya. They adapted themselves to a new environment pledging that they were fighting their jihad to help the oppressed populations around the world and in the meanwhile they supplied funds, veterans and fresh recruits. This massive appearance legitimated the role of al-Qaeda as defender of the Islamic faith, permitting a better coordination between local militants, regional insurgents groups and foreign forces.<sup>398</sup> Al-Qaeda instilled the idea that the Muslims had four main enemies: the heretics, the Shiites, the Americans and the Israelis.<sup>399</sup> The new 2002 occupation of Afghanistan, which followed the 9/11, confirmed the idea of this siege. Hegghammer, speaking about the planning of the Millennium Plot, proposed the so called “blowback theory” that explains how the Arab Afghans and al-Qaeda were a U.S.-Saudi creation that later rose up against their patrons.<sup>400</sup> He said that there is some evidence that these countries provided financial, logistical and military support to the Afghans mujahideens but there are no proofs that they did the same with the Arabs.<sup>401</sup> However, what is documented is their acquiescence to the recruitment of the foreign fighters, if not a direct action. It is also a reality that most of the groups were subsidized by private donors, as Bin Laden himself, and by non-governmental charitable organizations.

Unfortunately, the last aspect is painfully true, since one of the sources of terrorist funds is linked to the exploitation of clean money obtained legitimately by the charities, unlikely to the criminal organizations who often base their investment on money-laundering.<sup>402</sup> The misuse of the Islamic charities has already being pointed as a weak point in the global counter-terrorism preventive policies.<sup>403</sup> Some scholars suggested also that the phenomenon of the

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<sup>398</sup> *Ivi*, p. 25.

<sup>399</sup> *Ivi*, p. 27.

<sup>400</sup> Hegghammer, *op. cit.*, p. 62.

<sup>401</sup> *Ibidem*.

<sup>402</sup> Michael G. Findley, Daniel L. Nielson, J.C. Sharman, *Global Shell Games. Experiments in Transnational Relations, Crime, and Terrorism*, Cambridge University Press, Cambridge, United Kingdom, 2014, p. 91.

<sup>403</sup> *Ivi*, p. 93.

foreign fighters emerged because Islamism as a pure ideology declined because it was considered too moderate and mainstream.<sup>404</sup>

Azzam and his devotees were so meticulous in presenting in their reviews and later on their videos, a lot of vivid descriptions of the alleged crimes committed against their culture. They displayed territorial occupations, women raped, killings of both children and elders and desecrated mosques. It is interesting at this point to see how this cruelties, are mostly the same ISIS fighters are using against their own people while continuing to present an image of revenge and of recouping the losses the Western society was capable of in the past. In the still used religious ideology, Muslims are called to fight as a unite nation because the Quran prescribes it as a fundamental duty and secondly because the enemies are behind any possible redemption, so it would be useless to find a diplomatic solution.<sup>405</sup> This approach is used also by the major world powers since they are trying to escalate a real war against ISIS because any rational solution will not stop their barbarity.

The Islam theorists of the Twentieth century proclaimed that it is perfectly licit to declare war against a non-Muslim country if it has aggressed a Muslim one, the enemy is both inside and outside the national borders.<sup>406</sup> The increased perception of the global Muslim affairs relied on this construction of a pan-Islamic identity stud with features like alarmism, self-victimizing, conspiracy and xenophobic ideas.<sup>407</sup>

To conclude, the message through to lure the foreign fighters is not based firstly on theological explanations but on visceral appeals, using some subjects that could stimulate their sense of solidarity and altruism.<sup>408</sup> A second observation appeal to the Western policymakers, who need to adjust their public diplomacy and actions on the consciousness that foreign fighters open a totally different window on the terrorist issue, since even if there are some

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<sup>404</sup> Hegghammer, op. cit., p. 69-70.

<sup>405</sup> *Ivi*, p. 73.

<sup>406</sup> *Ivi*, p. 83.

<sup>407</sup> *Ibidem*.

<sup>408</sup> *Ibidem*.

common grounds between a local terrorist and a foreign fighter terrorist, they have also some dissimilarities and the prevention of the recruitment need to be faced in a more specific way.

This phenomenon reached a new escalation after the worsening of the civil conflicts in Iraq and Syria, when the Islamic State took the control of these territories. The U.S. intelligence agencies registered an average degree of more than 20.000 foreign fighters who have joined the terrorist group since 2011, and at least 3.400 were Westerners.<sup>409</sup>

Nicholas Rasmussen, the Director of the U.S. National Counterterrorism Center (NCTC) described this trend as unprecedented.<sup>410</sup> Despite this, the data could be not so reliable, since there is still a lack of coordination between the different global collaborating agencies to register the cross-borders movements. Even if there is no certainty about the real number of foreign fighters who return to their homeland after a period of training in a foreign terrorist camp, what the intelligence services surely believe is that they could pose a serious threat to the democratic states.<sup>411</sup>

The European leaders asserted that the existence of the Islamic Caliphate in Syria and Iraq is a direct threat to the security of the EU, since the foreign fighters come back with more rage and training and weapons skills and they come, for the greatest amount, from European countries.<sup>412</sup> The European joint criminal intelligence bodies attested that there have been between 3.000 and 5.000 EU citizens who fled their countries to fight in Syria, Iraq and other similar conflict zones.<sup>413</sup>

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<sup>409</sup> K. Archick, P. Belkin, C.M. Blanchard, C.E. Humud, D.E. Mix, *European Fighters in Syria and Iraq: Assessments, Responses, and Issues for the United States*, Congressional Research Service, April 27, 2015, <https://www.fas.org/sgp/crs/row/R44003.pdf>, p. 1. Online Access: 30/11/2015.

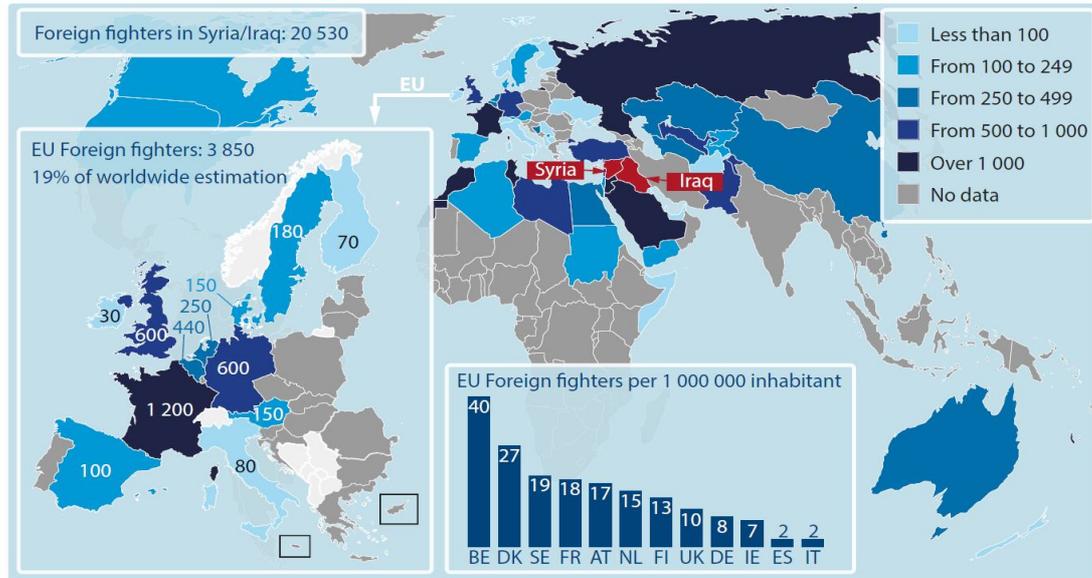
<sup>410</sup> *Ibidem*.

<sup>411</sup> *Ibidem*.

<sup>412</sup> *Ivi*, p. 9.

<sup>413</sup> *Ibidem*.

**Figure 1: Estimated number of foreign fighters in Syria and Iraq by country of origin in 2014**



Source: [ICSR](#), 2015. NB the figures used are ICSR's higher estimates in all cases.

I borrowed the map assembled in 2015 by the International Center for the Study of Radicalization and Political Violence (ICSR) to show what are the conjectures about the numbers of the potential radicalized fighters. I will focus on the European countries, so I'll leave aside the amounts that it is possible to devise in Russia and Turkey. The greatest predominance of foreign fighters fled from francophone countries like France and Belgium, which count respectively 1.200 and 440 potential foreign fighters, because of the ex-colonization boundaries with the North African region. The second place is up to the United Kingdom and Germany, with their 600 ascertained foreign fighters, since thanks to their economic appeal they could attract a consistent immigration. In 2011 the Pew Research Center reported that approximately between 15 million to 20 million Muslims live in Western and Central Europe. The reasons of this great amount of immigrants remount to the European governmental decisions of the 1950s and 1960s when, because of a labor shortage, new immigration policies were launched. Moreover, between the European countries, the South Asian and the North African regions, there are a lot of colonial, historical and

linguistic legacies that permit to attract in our continent certain specific types of nationalities.<sup>414</sup>

Why a European citizen should have the compelling feeling to go fighting miles away from his native country? As I have already underlined, some of them went to Syria and Iraq because of feelings of disaffection towards the Western societies where they felt rejected, so some of them planned to fly away with the idea to never come back or, maybe, they just wanted to die in these places while struggling for their ideal.<sup>415</sup> This great amount of European foreign fighters raised questions about the effectiveness of the European integration policies, since most of the Muslim exponents denounce a perceived social disparity between them and the reputed "pure native" Europeans.<sup>416</sup>

The EU was trying to contain the problem of the possible future terrorist attacks in their territory implementing some police and security measures.<sup>417</sup> For instance a lot of suspected radicalized individuals who travelled to Syria and Iraq were arrested in Belgium, France, Germany, The Netherlands, Spain and the United Kingdom with different terrorism charges.<sup>418</sup> Some of these countries have also tried to stop new recruitment activities confiscating, on security grounds, the identifications documents and the passports of some of their residents.<sup>419</sup>

## **2.7 The Foreign Fighters under International Law**

Between August and September 2014, the UN Security Council emanated two Resolutions which were specifically directed to frame the foreign fighters problem. They could be considered the most important contemporary

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<sup>414</sup> *Ivi*, p. 12.

<sup>415</sup> *Ibidem*.

<sup>416</sup> *Ivi*, p. 12.

<sup>417</sup> *Ivi*, p. 10.

<sup>418</sup> *Ibidem*.

<sup>419</sup> *Ibidem*.

documents to which the specialized employees refers to know what is the exact political position of the United Nations in this regard.

The first one was UN SC Resolution 2170/2014, adopted during the 7242<sup>nd</sup> meeting on 15<sup>th</sup> August 2014.<sup>420</sup> In this document the UN, while recognizing the independence and full sovereignty, unity and territorial integrity of the Republic of Iraq and of the Syrian Arab Republic, expressed its concern for the presence in these territories of violent extremist ideologies coming from both ISIS and the Al Nusrah Front, which could undermine the stability of the region and having a devastating humanitarian impact.<sup>421</sup> Then, in a second part of the resolution, the SC concentrated on the specific threat posed by the foreign fighters, condemning “the recruitment by ISIL, ANF and all other individuals, groups, undertakings and entities associated with Al-Qaida of foreign terrorist fighters, whose presence is exacerbating conflict and contributing to violent radicalisation, demands that all foreign terrorist fighters associated with ISIL and other terrorist groups withdraw immediately, and expresses its readiness to consider listing those recruiting for or participating in the activities of ISIL, ANF and all other individuals, groups [...]”<sup>422</sup>

Later on, on 24<sup>th</sup> September 2014, at the 7272<sup>nd</sup> meeting the Security Council reiterated the importance of this new threat imposing a new set of recommendations.<sup>423</sup> In the UN SC Resolution 2178/2014, the SC gave its definition of the foreign fighters, who are “namely individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training, including in connection with armed conflict [...]”<sup>424</sup> The SC is convinced that the foreign fighters increase the

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<sup>420</sup> SC Res 2170, UN SCOR, 7242th Mtg, UN DOC S/RES/2170/2014.

<sup>421</sup> UN SC Resolution 2170/2014, <http://www.globalr2p.org/media/files/resolution2170syria.pdf>, p. 1. Online access: 30/11/2015.

<sup>422</sup> *Ivi*, p. 4.

<sup>423</sup> SC Res 2178, UN SCOR, 7272th Mtg, UN DOC S/RES/2178/2014.

<sup>424</sup> UN SC Resolution 2178/2014, [http://www.un.org/en/sc/ctc/docs/2015/SCR%202178\\_2014\\_EN.pdf](http://www.un.org/en/sc/ctc/docs/2015/SCR%202178_2014_EN.pdf), p. 2, online access: 30/11/2015.

intensity and the duration of the conflicts, so the MS recognized that “addressing the threat posed by foreign terrorist fighters requires comprehensively addressing underlying factors, including by preventing radicalization to terrorism, stemming recruitment, inhibiting foreign terrorist fighter travel, disrupting financial support to foreign terrorist fighters, countering violent extremism, which can be conducive to terrorism, countering incitement to terrorist acts motivated by extremism or intolerance, promoting political and religious tolerance, economic development and social cohesion and inclusiveness, ending and resolving armed conflicts, and facilitating reintegration and rehabilitation”<sup>425</sup> and then added that “terrorism will not be defeated by military force, law enforcement measures, and intelligence operations alone, and underlining the need to address the conditions conducive to the spread of terrorism, as outlined in Pillar I of the United Nations Global Counter-Terrorism Strategy.”<sup>426</sup> In this occasion the SC praised the results that have already been achieved by the Global Counterterrorism Forum (GCTF) and the Interpol, but they were not enough so “all States shall prevent the movement of terrorists or terrorist groups by effective border controls and controls on issuance of identity papers and travel documents, and through measures for preventing counterfeiting, forgery or fraudulent use of identity papers and travel documents.”<sup>427</sup> The MS need now to combine the criminalization of “normal” terrorists, in the respect of the UN SC Resolution 1373/2001, with the prosecution and the punishment of “their nationals who travel or attempt to travel to a State other than their States of residence or nationality, and other individuals who travel or attempt to S/RES/2178 (2014) 14-61606 5/8 travel from their territories to a State other than their States of residence or nationality, for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts, or the providing or receiving of

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<sup>425</sup> *Ibidem.*

<sup>426</sup> *Ibidem.*

<sup>427</sup> *Ivi*, p. 4.

terrorist training”,<sup>428</sup> and who are willfully providing or collecting “by any means, directly or indirectly, of funds by their nationals or in their territories [...]”,<sup>429</sup> and whenever they are participating in the “organization, or other facilitation, including acts of recruitment, by their nationals or in their territories, of the travel of individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training.”<sup>430</sup>

The real legal problem related to the foreign fighters lay on the incapability to find for them an already existing position under International Law that could be effective to prosecute them.<sup>431</sup> This last Resolution, according to some scholars, carries a possibility of abuse because it blurs the lines between terrorism and armed conflict, since it is affirmed that the act of joining or attempting to join a group that engages in terrorism during an armed conflict becomes a serious offence.<sup>432</sup> Sandra Kraehenmann, Research Fellow at the Geneva Academy for International Humanitarian Law and Human Rights defines the foreign fighters as non-nationals who are involved in an armed violence outside their habitual country of residence, including in armed conflict as defined under international humanitarian law (IHL).<sup>433</sup> Contrarily to the problem of the usual terrorists, who have already been criminalized over time both in armed conflict and in peace time, the foreign fighters hadn't a real definitive position in the realm of the criminal jurisdiction, since their proper category has been envisioned only in the recent years.<sup>434</sup> Before they were mostly considered as mercenaries or there have been specific rules, conventions

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<sup>428</sup> *Ivi*, p. 5.

<sup>429</sup> *Ibidem*.

<sup>430</sup> *Ibidem*.

<sup>431</sup> S. Kraehenmann, *Foreign Fighters under International Law*, Academy Briefing No. 7, Geneva Academy of International Humanitarian Law and Human Rights, Université de Genève, October 2014, p. 42-43.

<sup>432</sup> *Ibidem*.

<sup>433</sup> *Ivi*, p. 3.

<sup>434</sup> *Ibidem*.

which banned the possibility to enlist them in a particular dispute.<sup>435</sup> The International Humanitarian Law defines what are the status of the different actors both if they take part in an armed conflict and if they are merely civilians, distinguishing between the international armed conflicts (IAC) and the non-international armed conflict (NIAC). The IAC is a conflict between two states where different types of armed forces can be used, and they are governed by the four 1949 Geneva Conventions, where people who no longer take part in the hostilities, the military personnel, the soldiers and the civilians are protected.<sup>436</sup> A NIAC, instead, is present whenever the armed forces of a state and one or more organized armed non-state groups or two different non-state groups fight against each other and under Common Article 3 of the 1949 Geneva Conventions the actors involved are obliged to reserve a human treatment to all the parts, banning murders, mutilations, tortures, taking of hostages or unfair trials.<sup>437</sup> The problem with the IHL is that in its legislation acts of terrorism during an armed conflict are prohibited, but it wasn't envisioned to consider a general WoT.<sup>438</sup>

If we want to consider the foreign fighters as combatants under the IHL in an IAC, it is important to understand what are the main consequences that this status carries. Firstly, the combatants are immune from criminal prosecution for

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<sup>435</sup> *Ibidem*.

<sup>436</sup> *Ivi*, p. 16. Article 3 stated that "Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed 'hors de combat' by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria. To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons: violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture; taking of hostages; outrages upon personal dignity, in particular humiliating and degrading treatment; the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples. The wounded and sick shall be collected and cared for. An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict. The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention. The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.

<sup>437</sup> *Ibidem*.

<sup>438</sup> *Ivi*, p. 15-16.

their belligerent acts during the conflict. Secondly, they are entitled as prisoners of war (POW) status if they fall into the hands of the enemy.<sup>439</sup> Obviously, if the local terrorists have not the possibility to take advantage from the above mentioned facilitations since the Coalition did not permitted it, the foreign fighters too cannot be legitimated to be treated as regular armed forces. For instance, during the U.S. occupation of Iraq the foreign fighters were excluded from the protection of the 1949 Geneva Convention IV, in order to better circumvent the prohibition to extradite people.<sup>440</sup>

On the other hand, they could not either be considered as civilians, since they directly participate in the attacks. Moreover, under Article 4 of the 1949 Geneva Convention IV, the nationals of a neutral State and of a co-belligerent State who are found on the territory of a belligerent State, are excluded from the protection of IHL since their State of nationality is supposed to exercise its diplomatic representation and protection.<sup>441</sup>

In NIAC considerations, there is no references to combatants or POWs, so an individual could potentially be punished for the mere fact of taking up arms and the severity of the punishment depends on the decisions of the present government.<sup>442</sup> However, the foreign fighters, regardless of their status under the IHL, are protected under the human rights law, because they are applied

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<sup>439</sup> *Ivi*, p. 17.

<sup>440</sup> *Ivi*, p. 20.

<sup>441</sup> *Ivi*, p. 18-19. Article 4 states that "Persons protected by the Convention are those who, at a given moment and in any manner whatsoever, find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals. Nationals of a State which is not bound by the Convention are not protected by it. Nationals of a neutral State who find themselves in the territory of a belligerent State, and nationals of a co-belligerent State, shall not be regarded as protected persons while the State of which they are nationals has normal diplomatic representation in the State in whose hands they are. The provisions of Part II are, however, wider in application, as defined in Article 13. Persons protected by the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949, or by the Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea of August 12, 1949, or by the Geneva Convention relative to the Treatment of Prisoners of War of August 12, 1949, shall not be considered as protected persons within the meaning of the present Convention."

<sup>442</sup> *Ivi*, p. 20.

also during an armed conflict.<sup>443</sup> Another legal issue is related to their state of nationality or habitual residence. Should the state of nationality, the state of residence or/and the state of transit have the duty to prevent the moves of a foreign fighter under International Law? Should the returning foreign fighters be prosecuted for acts they have committed abroad? Should the home state intervene to help its citizens when they are captured by another state force while they were acting like foreign fighters? Normally, when a foreign fighter is present in an armed conflict the state on whose territory the conflict occurs, and its allies should ask the intervention both of the state of nationality of the foreign fighter and of the state of transit.<sup>444</sup> If they do not respond to this call they could be accused of failing in the prevention of this phenomenon or of encouraging it.<sup>445</sup> Besides, the political pressure could press the States to exercise their diplomatic protection, even if at a certain level both the national legislations and the judicial decisions states that the government should at least consider on their own to exercise their diplomatic protection without being forced by the public.<sup>446</sup> Under this aspect the Syrian government has repeatedly submitted the names of the captured or deceased foreign fighter to the Security Council.<sup>447</sup> However, under the law of neutrality, if a state fails in preventing its citizens to join one of the belligerent parts, it undermines its own right to be considered neutral.<sup>448</sup> If that wasn't enough, the customary law principle of non-intervention compels the other states to abstain from intervening in the internal or external affairs of a country by the use of force or coercive measures.<sup>449</sup> So, if the government could not hinder their citizens to be lured abroad for military or terrorist purposes, they could be accused both of inefficiency and of possible *mala-fides* against another sovereign state.

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<sup>443</sup> *Ibidem*. So, they are protected under the *non-refoulement* condition, in other words an individual cannot be transferred in another country where his fundamental rights might be violated.

<sup>444</sup> *Ivi*, p. 49.

<sup>445</sup> *Ibidem*.

<sup>446</sup> *Ivi*, p. 53.

<sup>447</sup> *Ibidem*.

<sup>448</sup> *Ibidem*.

<sup>449</sup> *Ivi*, p. 50.

One of the things that are sure about the global considerations on foreign fighters is that they should be punished under the national and the international criminal laws. They could meet prosecution when they return in their home countries if they are suspected of having being involved in war or other international crimes.<sup>450</sup> They could be charged with grave violations of IHL like executions, hostage-takings, ill-treatment, torture, sexual abuses and recruitment of children.<sup>451</sup> Furthermore, they could be brought to trial also if they have committed ordinary crimes that are already criminalized under their national laws, although some of them might escape prosecution because the jurisdiction of their home countries does not extend to a foreign country.<sup>452</sup> In short, the foreign fighters are becoming a clearer category under the ICL and for the Western countries they are becoming a more dangerous threat than the normal terrorists. Ascertained that they could be sued with imputations, it is necessary to decide the manner they have to be stopped

## 2.8 The Islamic State (ISIS)

All questions about the terrorist problem reached a new level when the Islamic State of Iraq and al-Sham (ISIS) raised into power in 2013. ISIS followers pushed the world to rethink its actual perception, since this enemy is much more powerful and motivated than the groups that have preceded it. It is a political entity that is inseparable from its ideology, which in particular should be divided in two levels: the Jihadi-Salafism (or jihadism for short) that is the school of thought to which the group belongs, and their hardline orientations, which made them distance from al-Qaeda.<sup>453</sup> The jihadism ideology rests on a sectarian and extremist interpretation of the Islamic scripture, that rest under an

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<sup>450</sup> *Ivi*, p. 51.

<sup>451</sup> *Ibidem*.

<sup>452</sup> *Ivi*, p. 52.

<sup>453</sup> C. Bunzel, *From Paper State to Caliphate: The Ideology of the Islamic State*, Analysis Paper No. 19, March 2015, The Brookings Project on U.S. Relations with the Islamic World, Centre For Middle East Policy, <http://www.brookings.edu/-/media/research/files/papers/2015/03/ideology-of-islamic-state-bunzel/the-ideology-of-the-islamic-state.pdf>, p. 7. Online Access: 08/01/2016.

extremely rigorous and elaborated discipline founded in Egypt in 1928 by the Muslim Brotherhood.<sup>454</sup> This movement was convinced that the Muslim community needed to unite around one leader who would lead an hypothetical Islamic State, which would reunite all the believers of Allah in an unique nation.<sup>455</sup> On the other hand, the Salafism is a theological movement, expression of the so called Sunni Islam, concerned with the purifying of the faith and the elimination of every form of idolatry.<sup>456</sup> The exponents of this particular trend consider themselves as the only true Muslims, so their major task is to contrast the sinners that are, for the majority, the Shi'a Muslims and the democrats.<sup>457</sup>

ISIS group was founded in 2003, in occasion of the U.S. invasion of Iraq, as a cell of al-Qaeda in Iraq (AQI) and, thanks to the work of Abu Musab al-Zarqawi, a Jordanian foreign fighter who formally pledged allegiance to Al-Qaeda in 2004.<sup>458</sup> Al-Zarqawi was being imprisoned in Jordan between 1994 and 1999 and the difficulties he had to face in there permitted him to develop his skills as a charismatic leader and to establish some links with other fighters.<sup>459</sup> In 2006 he established a Mujahidin Shura Council in Iraq in order to unite al-Qaeda with other jihadi groups, to strengthen their efficiency.<sup>460</sup> Zarqawi himself told to the members of the Council that they would have been the starting point for the construction of the Islamic State.<sup>461</sup> In 2006 the Shura Council announced a new alliance with other jihadist groups and Sunni tribal leaders, known as the Alliance of the Scented Ones, which established

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<sup>454</sup> *Ibidem.*

<sup>455</sup> *Ivi*, p. 8.

<sup>456</sup> *Ibidem.*

<sup>457</sup> *Ibidem.*

<sup>458</sup> *Ivi*, p. 13. He did not give to Bin Laden the oath of loyalty, the *bay'a*. It is not only an oath of fealty but, traditionally, it is also the traditional contract of rule in Islamic Law between commander and commanded. There are two types of *bay'a*, the restricted and the unrestricted ones. A restricted oath is given to the leader of a militant group, such as al-Zarqawi, and its terms are limited. On the contrary, the unrestricted one is given to the leader of a political community and it is unlimited, obligating obedience in all matters. The oath to ISIS is considered an unrestricted one.

<sup>459</sup> *Ibidem.*

<sup>460</sup> *Ivi*, p. 16.

<sup>461</sup> *Ibidem.*

the naissance of the Islamic State of Iraq (ISI).<sup>462</sup> In this period there was a particular use of the wording since the spokespersons of the movement used both the expression “Islamic State *of* Iraq” and “Islamic State *in* Iraq”.<sup>463</sup> Apparently, what could seem an orthographic mistake was instead a deliberate political choice.<sup>464</sup> Indeed the first label was used to recall in the mind of the listeners the idea of a State for the Iraq’s Sunni population, similarly to what the Kurds and the Shi’ite communities did after the U.S. invasion.<sup>465</sup> On the contrary, the second one was designed to communicate the idea of a state for the world’s Muslims (the already mentioned Caliphate) following the example of the Prophet who left Mecca for Medina.<sup>466</sup>

At the end of the Iraqi insurgency the group was forgotten, but it resurrected in 2010 under the guidance of Abu Bakr al-Baghdadi.<sup>467</sup> Bin Laden praised the fighters of the Islamic State as the “most committed to the Truth and loyal to the Prophet”,<sup>468</sup> standing with them that for the effective construction of an Islamic State they did not need a full political capability.<sup>469</sup> In January 2012 al-Baghdadi sent some of his fighters to Syria to form an allied organization, Jabhat al-Nusra,<sup>470</sup> starting to question the preeminence of al-Qaeda and of its actual leader Ayman al-Zawahiri (who replaced Bin Laden after his death) while expanding its own group and renaming it the Islamic State of Iraq and al-Sham (ISIS).<sup>471</sup> At the time the two organizations did not acknowledge their relationship.<sup>472</sup> Then, in 2013 the al-Nusra emir Abu Muhammad al-Jawlani, revealed that they were an extension of ISIS and that he, together with other

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<sup>462</sup> *Ivi*, p. 17.

<sup>463</sup> *Ibidem*.

<sup>464</sup> *Ibidem*.

<sup>465</sup> *Ivi*, p. 18.

<sup>466</sup> *Ibidem*.

<sup>467</sup> Kraehenmann, *op. cit.*, p. 11.

<sup>468</sup> Bunzel, *op. cit.*, p. 21.

<sup>469</sup> *Ibidem*.

<sup>470</sup> Bunzel, *op. cit.*, p. 24.

<sup>471</sup> Kraehenmann, *op. cit.*, p. 11.

<sup>472</sup> Bunzel, *op. cit.*, p. 24.

colleagues were sent on the territory on a secret mission.<sup>473</sup> In a few time space, ISIS prevailed in Syria, merging officially with his rib, and reemerging in Iraq. The 29<sup>th</sup> June 2014 al-Baghdadi proclaimed the existence of the Caliphate over the territories under his control.<sup>474</sup>

ISIS fighters have been accused of great crimes under the IHL and the human rights law. In particular, the most important allegations were related to pitiless executions, torture, abductions, forces conversions, slavery, sexual violence, pillage, ethnic and religious persecution.<sup>475</sup> Saul questioned in his essays the efficiency of the modern corrective role and the article of Martin Chulov, reporter in the Middle East region for the English Journal *The Guardian* confirmed his observations. It dated December 2014, but it was recalled after the 11/13 to make people know where the Islamic State came from. He named it "*ISIS, the inside story*", where he reported an interview he made to an ISIS jihadist. This fighter, called Abu Ahmed, told the story of how he was lured into the first cell of ISIS when he was imprisoned in Camp Bucca, Iraq, in 2004.<sup>476</sup> He asserted that in there he came in touch with other terrorists in a way that was not possible outside the prison.<sup>477</sup> Indeed, the Iraqi government estimated that 17 of the 25 most important Islamic State leaders spent an amount of time in U.S. prisons (Camp Bucca, Camp Cropper or Abu Ghraib), between 2004 and 2011.<sup>478</sup> Ahmed in Camp Bucca met the actual ideological and spiritual leader of this new state, al-Baghdadi, who had a good reputation in the eye of his American jailers.<sup>479</sup> Since he was seen as a calming and conciliatory influence,<sup>480</sup> he was allowed to have more contacts with the other detainees. He is described as a charismatic person who had a personal

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<sup>473</sup> *Ivi*, p. 25.

<sup>474</sup> Kraehenmann, op. cit., p. 11.

<sup>475</sup> *Ibidem*.

<sup>476</sup> M. Chulov, *ISIS, the inside story*, The Long Read, The Guardian Online <http://www.theguardian.com/world/2014/dec/11/-sp-ISIS-the-inside-story>, p. 1. Online access: 07/12/2015.

<sup>477</sup> *Ibidem*.

<sup>478</sup> *Ivi*, p. 4.

<sup>479</sup> *Ivi*, p. 2.

<sup>480</sup> *Ibidem*.

background that permitted him to be considered as a representative of the Islamic claims, because he sustained his lineage dated back to the prophet Muhammad himself.<sup>481</sup> In addition, he took a PhD in Islamic Studies from the Islamic University of Baghdad, demonstrating in this way his knowledge of the scriptures.<sup>482</sup> The Sharia Council have stressed three way that could be considered legitimate to reach power into Islam: to be elected by an élite group, to be designed by a precedent ruler and to seize the power by brute force.<sup>483</sup> Since he asserted to descend from the Prophet, the Council had no complain for his candidacy, Bin Laden held him in consideration and he maneuvered independently to eliminate the competition. Certainly he is a very clever man, since during the years of his imprisonment he divided and conquered, reaching the title of the most bloodthirsty Muslim terrorist leaders.<sup>484</sup>

Nowadays, the Iraqis are in charge of the military and administrative operations.<sup>485</sup> The global community, in the form of the United Nations and the European Union, has unilaterally condemned their actions. However, during the last two years a core major error has been committed in combatting this new global threat. The global powers still considered the Islamic State as another terrorist group with the same features of al-Qaeda, so they thought that the old-fashioned counterterrorism means could be effective in contrasting its raising. Unfortunately, ISIS is not a canonical organization and it has demonstrated it since the very beginning. The Islamic State's texts and speeches emphasized a series of core concepts. For instance, Muslims must associate only with fellow "true" Muslims, the supporters need to live in accordance of Allah's laws or they would be considered unbelievers and all people who fight ISIS are to be considered apostates.<sup>486</sup> Moreover, they introduced a new concept of jihadism, since in the past and also in the al-Qaeda propaganda, it was only focused on

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<sup>481</sup> *Ibidem.*

<sup>482</sup> *Ivi*, p. 3.

<sup>483</sup> Bunzel, op. cit., p. 18.

<sup>484</sup> Chulov, op. cit., p. 9.

<sup>485</sup> *Ibidem.*

<sup>486</sup> Bunzel, op. cit., p. 10.

"*defensive jihadism*", that was to cast the militant acts as defensive in nature.<sup>487</sup> ISIS sided the defense statement with the notion of "*offensive jihadism*", which comprehend the actual hunt to the unbelievers even in their home territory to end the definitely the Muslim persecution.<sup>488</sup>

First of all we should take into consideration the new technological and communication media they have at their disposal. For instance, it is possible to find on internet an online review, named *Dabiq*, that has been directly written by the exponents of the Islamic State. It bills itself as a periodical magazine focused on the issues of *tawhid* (unity), *manhaj* (truth-seeking), *hijrah* (migration), *jihad* (holy war) and *jama'ah* (community).<sup>489</sup> It contains also photo reports, current events, and informative articles on matters relating to the Islamic State. An online platform, named the Clarion Project, is trying to develop a plan against the Muslim radicalization so, in order to actively understand the minds of the terrorists, it consents to download directly the numbers of the review. It is always Chulov who explain us the significance of the title, which enlightens the importance it has in the construction of ISIS propaganda. *Dabiq* is a small village situated in a vast agricultural plain between the Turkish border and the desert of Iraq, remained almost desert until ISIS's troops took over the houses of the inhabitants and the mosque in 2014.<sup>490</sup> Together with Raqqa, the Syrian strategic hub, and Mosul, the Iraqi greatest conquest, *Dabiq* is one of the three main focal points of the struggle of the militants.<sup>491</sup> *Dabiq* embodies the very symbolic essence of Jihad, since this village has been elected by the same prophet Muhammad to be the location of a fateful showdown between Christians and Muslims before the starting of the apocalypse.<sup>492</sup> The conquest of this village confer to ISIS the religious

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<sup>487</sup> *Ibidem*.

<sup>488</sup> *Ibidem*.

<sup>489</sup> The Clarion Project, <http://www.clarionproject.org/news/islamic-state-ISIS-isil-propaganda-magazine-dabiq>. Online access: 7/12/2015.

<sup>490</sup> M. Chulov, *Why ISIS fights*, The Long Read, The Guardian Online, <http://www.theguardian.com/world/2015/sep/17/why-ISIS-fight-syria-iraq>. Online access: 07/12/2015.

<sup>491</sup> *Ibidem*.

<sup>492</sup> *Ibidem*.

legitimization for their actions, it allows them to claim the possess of an incontestable mandate to change the world order.<sup>493</sup> Such a title would be very appealing for the believers, since it will give an aura of mystery and inevitability to all Islamic readers who surely know about this prophecy. In the third number of the review they compared the call for Syria and Iraq to the *hijrah*, a journey narrated in a part of the Quran where the prophet Mohammed and his earliest supporters left persecutions behind their backs and fled to Yathrib (Medina).<sup>494</sup> In there, they organized a sort of military base they used to coordinate subsequent military campaigns against their detractors.<sup>495</sup> Using the columns of this article, the recruiters activated a smart strategy where they presented their organization as an imperfect body inhabited by human beings who can be fallible.<sup>496</sup> In this way, they assert to be aware that they have to improve their political and social structure, but to accomplish that they need more time and more people, but they assure they are fighting on the right side.<sup>497</sup> Their message is very powerful, "the *Khilafah* is a State whose inhabitants and soldiers are human beings. They are not infallible angels. You may see things that need improvement and that are being improved."<sup>498</sup>

Two researchers of the Catholic University of Milan and of the Melbourne University, respectively Matteo Vergani and Ana-Maria Bliuc, searched the first eleven numbers of the review to advise on the main contents and messages spread by ISIS. They employed a particular computerized text analysis program, the LIWC 2015 (*Linguistic Inquiry and Word Count 2015*).<sup>499</sup> It calculates the percentages of each category present in the dictionary in a chosen unit of

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<sup>493</sup> *Ivi*, p. 2.

<sup>494</sup> *Ibidem*.

<sup>495</sup> K. Archick, P. Belkin, C.M. Blanchard, C.E. Humud, D.E. Mix, op. cit., p. 40.

<sup>496</sup> *Ivi*, p. 41.

<sup>497</sup> *Ibidem*.

<sup>498</sup> *Ibidem*.

<sup>499</sup> M. Vergani, A. Bliuc, *The Evolution of the ISIS' language: a quantitative analysis of the language of the first year of Dabiq magazine*, on *Sicurezza, Terrorismo e Società International Journal Issue 2*, EDUCatt Università Cattolica del Sacro Cuore, Milano, 2015, p. 7.

analysis,<sup>500</sup> and it is an appropriate tool to investigate the issue because it could capture different aspects of the language that could reveal the implicit motives, emotions and objects of interest, unveiling the psychological dimension of the propaganda.<sup>501</sup> They also reemphasize that, according to the European Union's reports, ISIS is most successful in recruiting young individuals from Western countries,<sup>502</sup> as the previous data on foreign fighters migration demonstrated. News report also announced the birth of a particular unit, the *Anwar al-Awlaki Battalion*, that is exclusively composed of English-speaking soldiers.<sup>503</sup> The *Dabiq* Magazine started to be printed in July 2014,<sup>504</sup> and the last number was released in November 2015. The analyzing task-force concentrated principally on four subtexts linked to corresponding words that are: the group motives (achievement, affiliation, power), the emotions (anger, anxiety, emotional tone), the concern for a particular object (death, females, religion) and the language jargon (net-speak).<sup>505</sup> The results showed something that was already known, the fact that affiliation and power are the core drives, even if they fluctuated in the different issues,<sup>506</sup> since affiliation is exploited to maintain group cohesion and identity.<sup>507</sup> The emotional baggage, effective tool in the luring procedures, focuses on negative feelings, since anger has been isolated as a mobilizing emotion linked to violence and aggression.<sup>508</sup> The death cult, the concern for the luring of women and their connection with the religious aspects increased in the last number of the review.<sup>509</sup> Indeed, the luring of women shows the desire to consolidate the utopian vision of the Caliphate, where "ordinary" people could live "ordinary" lives.<sup>510</sup> Also the jargon uses changed, and now the

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<sup>500</sup> *Ivi*, p. 8.

<sup>501</sup> *Ivi*, p. 9.

<sup>502</sup> *Ivi*, p. 7.

<sup>503</sup> *Ivi*, p. 8.

<sup>504</sup> *Ivi*, p. 9.

<sup>505</sup> *Ibidem*.

<sup>506</sup> *Ivi*, p. 15.

<sup>507</sup> *Ivi*, p. 16.

<sup>508</sup> *Ivi*, p. 15.

<sup>509</sup> *Ivi*, p. 16.

<sup>510</sup> *Ivi*, p. 17.

editors have modernized their language to attract internet addicted and young people through the use of typical internet slang (btw, lol, thx, etc...).<sup>511</sup> The use of the known language tools enlightened that they understood at what degree the psychological structures of the text can generate identification in the audience, and how this could help them to build an effective and functioning State.<sup>512</sup> Indeed, the leaders of this organization comprehended that the success of a good leadership is based on a correct matching between the personal characteristics of the chiefs, the historical context and the follower's psychological features.<sup>513</sup>

An article published on *Foreign Affairs* on March/April 2015 by Professor Audrey Kurt Cronin, Director of the International Security Program at the George Mason University is of particular interest because it concentrates on the quarrels developed on the current status of ISIS self-proclaimed sovereignty. She entitled her piece *ISIS is not a terrorist group* where she basically exposed her wonderings about the evolution of the movement, instating on the fact that on her opinion the U.S. President Barack Obama got wrong when he labelled ISIS as a pure and simple terrorist organization.<sup>514</sup> A normal terrorist network like al-Qaeda usually counts only a bunch of partisans and, secondly, it attacks civilians but do not hold a territory and, finally, it cannot directly confront a military force.<sup>515</sup> On the contrary, the Islamic State has at least 30.000 fighters, hold territories both in Iraq and Syria, funds itself through a combination of earnings that come from the illegal oil trade on the black market, the taxation and the contraband of antiquities, it controls lines of communication, commands infrastructures and can carry out complex military operations.<sup>516</sup> They claimed to be a State and, actually, they have reached the

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<sup>511</sup> *Ivi*, p. 16.

<sup>512</sup> *Ivi*, p. 18.

<sup>513</sup> *Ibidem*.

<sup>514</sup> A.K. Cronin, *ISIS is Not a Terrorist Group. Why Counterterrorism Will not Stop the Latest Jihadist Threat*, *Foreign Affairs Online*, March/April 2015, <https://www.foreignaffairs.com/articles/middle-east/ISIS-not-terrorist-group>, p. 2. Online Access: 01/12/2015

<sup>515</sup> *Ibidem*.

<sup>516</sup> *Ibidem*.

level of an almost state, or using the right juridical category present in International Law, a *quasi-state*. It is governed by a complex administrative structure where at the top there is the emirate, with al-Baghdadi and two deputies, Abu Ali al-Anbari, who's in charge of the Syrian territory and Abu Muslim al-Turkmani, who controls the operations in Iraq. Then, there are other twelve civil bureaucratic administrators.<sup>517</sup> This demonstrate that even if the Western States strike individually the chiefs of the Islamic State, they will be easily replaced.

The group took advantage of the chaos created after the revolt against the Assad régime to exploit the weakness of the government and to illegally take the control of a part of the population.<sup>518</sup> After the withdrawal of the Americans they started to pursue a sort of pro-Sunni agenda, contrasting the Prime Minister Nouri al-Maliki. This earned them the support of Iraqi Sunni tribal leaders, former anti-U.S. insurgents and former scholars of the Iraqi military officers who seek to regain the power.<sup>519</sup> The massive conquer campaign started in 2014 when they moved towards Baghdad, Mosul, Tikrit, al-Qaim and other Iraqi towns.

The main difference that is needed to be understood between al-Qaeda and the ISIS is the way in which they present themselves to the public. The al-Qaeda group tried to rouse a Muslim insurgency against the secular rulers, depicting itself as a moral point of reference.<sup>520</sup> ISIS, instead, took a step further, asserting it was seeking to control a territory to create a pure Sunni Islamist territory governed by the *sharia* laws, to obliterate the secular Western borders.<sup>521</sup> Surely after almost fifteen years of fighting against the Western world, some terrorists have understood that if they want to contrast efficiently the enemy they should reach their same power level. In addition, they could be more efficient, since they could not respect International Law and the

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<sup>517</sup> *Ivi*, p. 4.

<sup>518</sup> *Ibidem*.

<sup>519</sup> *Ivi*, p. 3.

<sup>520</sup> *Ibidem*.

<sup>521</sup> *Ibidem*.

international conventions. However, they proclaim that they could offer a series of short-term primitive gratifications, as the sexual market of the brides, or the offering of adventure for someone who wants to try his own limits and experience some adrenaline.<sup>522</sup>

## 2.9 Conclusions

In conclusion, legally speaking during the latest years there have been some difficulties in devising the right position where to start the handling of the Islamic terrorists and foreign fighters. Even if there are still a lot of uncertainties on a definition of the terrorist phenomenon, we could assert that the world powers had had mostly reached an admissible compromise. So, starting from this point it should have been easier to fight against this global threat, however, the tendency to underestimate the gravity of the phenomenon of the foreign fighters have lead the Western powers to not update the security and control measures that were designed to contrast efficiently a menace that ten years ago had a totally different aspect.

According to Cronin, it is too late to use only de-radicalization programs to put an effective end to this phenomenon.<sup>523</sup> Instead we should implement the strategy of the "offensive containment", that is a combination of limited military tactics and broad diplomatic strategy to halt the expansion of the group, to isolate it and degrade its capabilities.<sup>524</sup> A pure military action would be counterproductive since the major powers could remain involved in a long deteriorating war they, maybe, could not win. They need to develop a common diplomatic, economic and military approach both between each other and the Arab States of the region that openly oppose ISIS domination, in order to ensure that this pseudo-state could be disrupted from the inside.<sup>525</sup> This could be a

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<sup>522</sup> *Ivi*, p. 6.

<sup>523</sup> *Ivi*, p. 2.

<sup>524</sup> *Ibidem*.

<sup>525</sup> *Ivi*, p. 8.

possible solution, since the threat posed by ISIS is much worse than we expected it to be, but the reaction we are showing after the recent attacks is much worrying, because in this way we follow the path they have chosen for us. For instance, the followers of Donald Trump's advocacy demonstrate a new symptomatic attitude that is taking action in the Western society.<sup>526</sup> David Rothkopf, CEO and Editor of Foreign Policy, wrote that the public reactions to 9/11 attacks triggered a worsening spiral,<sup>527</sup> where sporadic, impulsive, ill-considered and uncoordinated responses from the part of the States and the victims lead to wrong outcomes. Even the Obama doctrine was not efficient and resorted in strategic incoherence.<sup>528</sup>

Scott Atran, anthropologist at Oxford University, University of Michigan and at Francis National Center for Scientific Research, wrote for *The Guardian* revealing the four principal axioms of ISIS, which were published in a pamphlet in 2004, *The Management of Savagery/Chaos*. It was written by a supporter of al-Qaeda, under the pen name of Abu Bakr Naji, and his attempt was to try to serve a strategy for the years to come. The first point was to diversify and widen the crusade against the Zionist enemies in every part of the world. Secondly, they should sow fear in the general population and damage the economies of the enemies.<sup>529</sup> Then, it was needed to capture the rebelliousness of the youths, their energy, idealism and self-sacrifice. Finally, they should have to expose the weaknesses of the America's centralized power to push the abandon of proxy wars for a real one.<sup>530</sup> ISIS, in a number of Dabiq in early 2015, radicalized the idea that the Grey Zone, where still the majority of the Muslim community stay, should be disrupted since they have to choose where

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<sup>526</sup> D. Rothkopf, *Our Reaction to Terrorism Is More Dangerous Than the Terrorists*, on Foreign Policy Online, 25 November 2015, <http://foreignpolicy.com/2015/11/25/our-reaction-to-terrorism-is-more-dangerous-than-the-terrorists-trump-obama-eu-isis/>. Online Access: 17/01/2016.

<sup>527</sup> *Ibidem*.

<sup>528</sup> *Ibidem*.

<sup>529</sup> S. Atran, *Mindless terrorists? The truth about ISIS is much worse*, Opinion, The Guardian Online, <http://www.theguardian.com/commentisfree/2015/nov/15/terrorists-ISIS>, p. 1. Online access: 07/12/2015.

<sup>530</sup> *Ibidem*.

to stand, if with the infidels of with the Caliphate.<sup>531</sup> Moreover, the Jihad is presented as an egalitarian, equal opportunity employer who can be fairer than the Western ones and this could be very appealing for an immigrant population.<sup>532</sup> ISIS lures the majority of his recruits with promises of power, money, wives and status and in this way they could attract young firebrands who want to fight for a cause. However, there are other elders who changed their minds, like the Abu Ahmed who was interviewed by Chulov, who grew wiser with age and converted to softer positions. Besides, he fears to leave the movement, because he could be killed with his family.<sup>533</sup> If we want to produce new counter-terrorism narratives we should take into account these situations. There is the need to take back our rationality, envisioning strategies that could consider the multi-facet structure of the human being without being blinded by hurried decisions took to demonstrate that something has been done.

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<sup>531</sup> *Ibidem.*

<sup>532</sup> *Ivi*, p. 2.

<sup>533</sup> Chulov, *ISIS the inside story*, op. cit., p. 9.

### 3.

#### **The Patriarchal Arrogance: an Efficient Machine Producing Terrorists**

Indeed, this is the classic form of discrimination,  
having to “deserve” what others are entitled to.

Christine Delphy, *Separate and Dominate*.

*Summary:* 3.1 The Gendered Patriarchy; 3.2 The War on Terror and Its Genderization; 3.3 ISIS and Its Brides; 3.4 ISIS and Its Sex Slaves; 3.5 The Importance of Counter-Narratives; 3.6 Malala Yousafzai: How a Little Girl Could Stand Against Terrorism; 3.7 Guantánamo Bay or The Annihilation of the Human Being; 3.8 Conclusions.

In this chapter the patriarchy will be inquired from two particular perspectives which apparently seems to diverge from one another but, at the end, they both contributed to the general modelling of the contemporary new forms of terrorism. Usually, the patriarchal attitude is characterized by feelings of arrogance, disrespect and disregard towards the inferior, traits that are typical of the sadistic personification described in the first chapter. The sadists are part of the social environment and they could become really disruptive if they succeed in taking the control of the public arena, as history as already shown us several times. They broke the rules of both the internal and the international judicial system, forcing the constitutional reality to bend in front of their interests. Since they could be as manipulative as outlawed, in behaving in that way they endanger the security of the general population. In the first part of this chapter I will give a general insight on the sexual construction of the modern society, demonstrating how the above-mentioned adjectives have been

achieved a general social and cultural dimension. Then, its first declination will regard the issue of women's discrimination that will demonstrate how the gendered social conception is exploited by the political actors to exclude from the public arena a representing part of the civilized society. Secondly, but always related to the disdain the dominant society retains in the regard of its more vulnerable parts, I will approach briefly the massive human rights violations represented in the famous Guantánamo case, where in order to defend a presumed defensive right the most influent world power decided to disrespect the major international conventions that have been signed especially after the Second World War.

### 3.1 The Gendered Patriarchy

The Western society holds a strong patriarchal attitude towards all that could be considered part of the Otherness, without acknowledging the differences present in a particular cultural, religious or gendered group. This psychological approach is based principally on the importance of the self, an important part of the human subconscious which characterize every single human permitting the development of every singular individuality.<sup>534</sup> When a certain type of consciousness achieves the goal to be universally recognized as the most prominent there will be no space for other personalities to modify the given perceptions of the world.<sup>535</sup> This vision is resumed in the philosophy of the dominant, where the one in charge represents the absolute truth and the others need to bow in front of him, so any divergent figure will not be tolerated.<sup>536</sup> Nevertheless, since the Other is a real presence in the everyday life, the human being is called to find an answer for his existence. In order to respond to that, the society creates a dimension of dichotomy between the One

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<sup>534</sup> C. Delphy, *Separate and Dominate. Feminism and Racism After the War on Terror*, The English-language edition by David Broder, Verso Edition, London, 2015, p. 5.

<sup>535</sup> *Ibidem*.

<sup>536</sup> *Ivi*, p. 6.

and the Other, where the first actor is in the possibility to define the second, assuming a position of tolerance or intolerance whenever it suits him.<sup>537</sup> On the contrary, the second is forcibly confined in a subjected condition, since his task is to permit the actualization of the peculiarities of the people in charge.<sup>538</sup> When the inferior tries desperately to climb this sort of hierarchical construction, he finds himself in a condition of impossibility, since he is not supposed to defy the legitimate order.<sup>539</sup> So, inasmuch as he is inherently inferior, he is expected to follow the instructions of the authorities without complaining.<sup>540</sup> Traditionally, the white heterosexual man sits at the top rung of this social ladder where he has been taken as the reference point on the social acceptability scale, so anybody who does not suit his description is inevitably dispossessed.<sup>541</sup> One of the variations of this discriminatory behavior has been directed against the Muslim alleged terrorists imprisoned into the American penitentiaries settled in occasion of the invasion of Iraq and Afghanistan. A particular case is the one of Guantánamo Bay, described in the second part of the chapter. For now another core example, specifically the one concerning the female universe, will be scrutinized to explain in the details this patriarchal mindset.

In every corner of the world women have always represented one of the most vulnerable parts of the society and only starting from the XIX century it was possible to envision a consistent change in the main policies of most Western governments, which started to acknowledge to them some rights comparable to the men's. Borrowing the main concepts of the famous French philosopher and sociologist Pierre Bourdieu, it is possible to state that the racial and sexist discrimination of the patriarchal order rests on a symbolic bounding chain which, through the spreading of daily communication significances and

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<sup>537</sup> *Ivi*, p. 10.

<sup>538</sup> *Ibidem*.

<sup>539</sup> *Ibidem*.

<sup>540</sup> *Ivi*, p. 12.

<sup>541</sup> *Ibidem*.

common knowledge, permits the perpetration of a certain conduct.<sup>542</sup> Bourdieu underlines the deep connection originated between the public and the private domains that contradicts, in part, the ancient idea that the sexual domain was relegated only in the private sphere.<sup>543</sup> Indeed, the domestic universe reproduces conceptions that are legitimated by public institutions like the Church, the School and the State.<sup>544</sup> The establishment concurs in conferring validation to the main dominant dogma when it does not act to stop the violations perpetrated at the detriment of the weaker parts of the society.

The first two main public actors that will be examined are the Church and the State, since with their overwhelming and universal jurisdiction they hold the power to better or to worsen the conditions of the society. Generally, the religious authorities, both in the Islamic and in the Catholic universe, have always advocated for the supremacy of a paternalistic way of living in the private domain of the family, where the *pater familias* is to be considered the center of the decision-making process,<sup>545</sup> as a reflection of the fatherly authority of the religion itself. The sacred texts confine the woman in a dimension of submission, bestowed as the best environment that reflects this natural inferiority and weakness.<sup>546</sup> The historical legitimization of the institution, gained throughout the securing of political alliances with the secular ruling dynasties, permitted the continuation of this ideology. The modern era decreed a change in this tradition when the official division between the secular and the temporal powers was made. Unfortunately, the state forces failed in contrasting the major thrusts of the sexist religious visions, which took root in the social laical society as an ultraconservative philosophy of life, a remnant of the old times passed.<sup>547</sup> When the State or the international community do not

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<sup>542</sup> P. Bourdieu, *Il dominio maschile*, Prima edizione nell'Universale Economica Feltrinelli, Giangiacomo Feltrinelli Editore, Milano, 2009, p. 8.

<sup>543</sup> *Ibidem*.

<sup>544</sup> *Ivi*, p. 11.

<sup>545</sup> *Ivi*, p. 101.

<sup>546</sup> *Ibidem*.

<sup>547</sup> *Ivi*, p. 103.

intervene to stop the gender bias, it confers to it reasonableness and, starting from that moment the social discriminating constructions is assumed as a moral order finding its protection into the administrative and judicial order.<sup>548</sup>

In this situation the role of the education system is a little bit controversial,<sup>549</sup> since for the majority it reiterates a strong manly image of the society, proposing some teachings as more suitable for males and others for females.<sup>550</sup> In this optic the concept that passes is that women do not have the capacities to approach subjects that have been always considered as a prerogative of the male population.<sup>551</sup> However, on the other hand the school has at the same time the potential to challenge and transform the sexism, inasmuch as the main conception of the education is to create a critical environment where the knowledge defy its own dogmas.<sup>552</sup> Lamentably, every action that could undermine the established order is seen as a threat, so the people in charge try desperately to oppose to the novelties. Moreover, every analytical thinking is dangerous for these monolithic representations, because it could subvert the given apparatus, endangering the positions of the ones who sit on top of the hierarchical order.

The French famous feminist Christine Delphy, co-founder in the 1970s with Simone de Beauvoir of the journal *Nouvelles questions féministes*, gave a simple and direct definition of the gender system in her book *Separate and Dominate. Feminism and Racism After the War on Terror*. Accordingly, it could be described as a "cognitive system that separates humanity into two totally distinct, impermeable groups, each excluding the other and standing in rigorous hierarchy".<sup>553</sup> It could be compared to a class system where the social conception of sex is the main point of reference and sexism its main ideology.<sup>554</sup>

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<sup>548</sup> *Ibidem*.

<sup>549</sup> *Ivi*, p. 102.

<sup>550</sup> *Ibidem*.

<sup>551</sup> *Ibidem*.

<sup>552</sup> *Ivi*, p. 103.

<sup>553</sup> Delphy, op.cit., p. 40.

<sup>554</sup> *Ibidem*.

This chauvinism is only a part of the fundamental male ideology which does not need to justify itself since it is assumed as the perfect expression of the human nature.<sup>555</sup> The domain of the gender studies proclaims that the given difference between sexes is not based on the anatomical differences of the two reproductive systems, but on their psychological and social status, attitudes and power that are the byproduct of the social construction.<sup>556</sup> This observations permit to remark another time the importance of the social action of the human being in the assembling of his own environment, demonstrating that all actions and behaviors present in the everyday life are psychologically bounding. Usually, the manliness is described as a virtue, *virtus* in the Latin sense of the word,<sup>557</sup> which has to be demonstrated through some social passages and images. For example, the defloration of the virgin bride through an invasive act of penetration demonstrates the power exercised by the groom in conquering his possession.<sup>558</sup> In opposition to this active sexual subjugation the woman is supposed to submit willingly to her mate because she naturally feels the compulsion to be dominated.<sup>559</sup> In this sense the womanliness is presumed to embody the characteristics of the passiveness, submission, sensitivity and dependence.<sup>560</sup> Whilst the phallus is erected to symbolize the fierceness, the vagina is raised to the grade of sacred idol which should be preserved and subjected to restrictions and control from the part of the male population,<sup>561</sup> since the female body is just another way to express the male honor through a secure and legitimate progeny. As a consequence of this construction, two different and opposing movements are put in place. The man is taught to abandon any sign of femininity that could derive to them from the maternal cures.<sup>562</sup> The woman, instead, has to limit her psychological and physical needs

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<sup>555</sup> Bourdieu, op. cit., p. 17.

<sup>556</sup> *Ibidem*.

<sup>557</sup> *Ivi*, p. 20.

<sup>558</sup> *Ibidem*.

<sup>559</sup> *Ivi*, p. 30.

<sup>560</sup> *Ivi*, p. 31.

<sup>561</sup> *Ivi*, p. 24-25.

<sup>562</sup> *Ivi*, p. 35.

and attitudes to embrace her caring role of submissive wife and mother.<sup>563</sup> Inasmuch as the submissive condition is one of fear and unpredictability, due to a lack of control, the dominated start to develop some practical skills that are always presented as negative, like the intuition and the sixth sense, to prevent the requirements of their masters and their possible violent reactions.<sup>564</sup>

Most of the time this coercion is not perpetrated through visible and evident actions, but through gestures of symbolic force and violence. The use of the word symbolic usually transmits the idea that the detrimental results that could be faced are less grave than the ones resulted from the use of a physical visible force.<sup>565</sup> On the contrary, the symbolic force is a particular form of power that could be exercised on a body to force it to act in a particular way, even in the absence of a physical constraint,<sup>566</sup> and which has gained force through a practicing built in decades.<sup>567</sup> When the majority uses the technique of the *learned helplessness* and makes someone presumes he is worthless and incapable of taking care of himself, he starts to believe this perception and acts proportionately.<sup>568</sup> It is more difficult to get rid of a dimension that has been deeply inscribed in the mind and in the culture of the people, and it is in this perspective that the public governances should help preserving the liberties of the weakest parts of their societies. Delphy, bearing in mind this social construction, criticizes the democratic policies since they have always tried to exclude women from the political atmosphere.<sup>569</sup> There is still a traditional and old-fashioned role division where men are supposed to be responsible for the public space while women should guard the private area and stay away from the public and political arena.<sup>570</sup> As long as the democratic countries do not approach again the real values of the *res publica*, that is to expand the control of

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<sup>563</sup> *Ivi*, p. 37.

<sup>564</sup> *Ibidem*.

<sup>565</sup> *Ivi*, p. 44.

<sup>566</sup> *Ivi*, p. 48.

<sup>567</sup> *Ivi*, p. 49.

<sup>568</sup> *Ivi*, p. 75.

<sup>569</sup> Delphy, op. cit., p. 42.

<sup>570</sup> Bourdieu, op. cit., p. 15-16.

the democratic speech to the parts that are actually excluded eliminating the monopolistic approach, there would not be a real democratic way of living.<sup>571</sup> If someone still has to demonstrate his right to claim a benefit that is given for another human being there will be no equality.<sup>572</sup> On the opposite side of Delphy there is Paulina Pospieszna, Assistant Professor in the Adam Mickiewicz University in Poznan, who studied the empowerment of women in post-conflict countries focusing particularly on Bosnia and Herzegovina. In her analysis she asserts that women's empowerment needs the sustain and the assistance of the democracies which can channel the public directions in a civilized path.<sup>573</sup> This idea works also the other way around, since women legal emancipation and raising in their educational standards could permit in post-conflict countries the building of a new political and economic path shaped on democracy and peace.<sup>574</sup>

Besides, on the theme of domination Delphy stated that women cannot be equal to men for the patriarchal way of thinking, since it seems that they have no one under them on the social scale that they could exploit.<sup>575</sup> Moreover, if they become equal to men they would inevitably escape from the categorization they were put in so, at the same time, men will stop to perceive themselves as masculine, because they generate their own identity in opposition to the femininity.<sup>576</sup> The same concept could be applied to the idea of the Western cultural, political, social and economic domination towards the perceived inferior countries of the Arab, African and Asian regions. It is needed a new conception of sexualized society where mutual respect and presupposition of

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<sup>571</sup> Delphy, op. cit., p.43.

<sup>572</sup> *Ivi*, p. 48.

<sup>573</sup> P. Pospieszna, *Democracy assistance and women's political empowerment in post-conflict countries*, in *Democratization*, DOI, Volume 22, Issue 7, Routledge Taylor & Francis Online, 2015, <http://www.tandfonline.com/doi/full/10.1080/13510347.2014.942642>, p. 2. Online Access: 09/01/2016.

<sup>574</sup> *Ibidem*.

<sup>575</sup> *Ibidem*.

<sup>576</sup> *Ibidem*.

equality are the bases of the social and political process or the hegemonic conceptions will not disappear.

The UN Women report, *Progress of the World's Women 2016-2016. Transforming Economies, Realizing Rights*, reiterates that to reach the absolute equality the "civilized" society should act on three related fronts that provoke women sufferings, that are the annihilation of the socio-economic disadvantage, the elimination of the above mentioned gendered stereotypes and the reinforcement of women's voices in the public participation.<sup>577</sup> Some improvements have been made in the last decades and according to 2014 data there are now 143 countries that guarantee gender equality in their constitutional rights, 132 countries have rearranged the minimum age for marriage at, at least, eighteen years old, 119 countries legislated on the violence against women and 125 countries had implemented specific laws against the sexual harassment in the work places.<sup>578</sup> Even if some governments like the ones of Morocco, Turkey and the Republic of Korea have demonstrated to be good-willing in eliminating some discriminant policies, other like Algeria, Bangladesh, Egypt, Iran, Pakistan, Saudi Arabia and Jordan still show reticence in changing their legislations, in which they confer more power to men both in marriage laws and property possession.<sup>579</sup> In this latest countries the situation is even graver today because of the terrorist threat.

So, in the next pages, I will actualize the feminist issue in the construction of the terrorist world, presenting the manipulation that have been made both by the Western forces and the terrorist groups. Even if they are discriminated women represent a crux point in the majority of male strategic assets put in place to win wars and, at the same time, the modern female awakening has made them to be decisive in some important contrasting operations.

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<sup>577</sup> UN Women, *Progress of the World's Women 2016-2016. Transforming Economies, Realizing Rights*, United States, 2015, <http://progress.unwomen.org>, pg 24. Online Access: 26/12/2015.

<sup>578</sup> *Ivi*, p. 28.

<sup>579</sup> *Ivi*, p. 29.

### 3.2 The War on Terror and Its “Genderization”<sup>580</sup>

In the WoT women play different roles that go from victimization to condemnation as active violent fighters, passing from more balanced positions as defender of the educational kingdom and freedom liberties. I will try to be as exhaustive as it is possible in depicting those different impersonations.

Usually when we speak of terrorist radicalized people, women are assumed to not be as dangerous as their male counterparts because the abovementioned conventions on gender stereotypes start to work.<sup>581</sup> However, a woman should not be assumed to be more or less dangerous, nor more prone to peace, dialogue, non-violence and cooperation than a man.<sup>582</sup> The United Nations in the SC Resolution 2242/2015, adopted in the 7533<sup>rd</sup> meeting of the Security Council the 13 of October 2015, recognized the meaningful involvement of women in the efforts to prevent, resolve and rebuild from conflict, and underlined their effectiveness and praised their long-term sustainability.<sup>583</sup> In addition, the SC reaffirmed that the achievement of empowerment and gender equality “are critical to conflict prevention and broader efforts to maintain international peace and security”,<sup>584</sup> adding that only a dedicated commitment to women’s participation and women’s rights will built an effective women’s engagement at a leading level.<sup>585</sup> Indeed, women could provide different political opinions,<sup>586</sup> they represent one half of the world’s human capital,<sup>587</sup> and the World Bank recognized them their

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<sup>580</sup> C. Delphy, op. cit.

<sup>581</sup> Organization for Security and Co-operation in Europe (OSCE), OSCE Secretariat – OSCE ODIHR Expert Roundtables, *Women And Terrorist Radicalization. Final Report.*, Vienna, February 2013, <http://www.osce.org/secretariat/99919?download=true>, p. 7. Online Access: 23/12/015.

<sup>582</sup> *Ibidem.*

<sup>583</sup> The Security Council of the United Nations, *UN SC Resolution 2242/2015*, [http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s\\_res\\_2242.pdf](http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_res_2242.pdf), p. 1. Online Access: 02/01/2016.

<sup>584</sup> OSCE, op. cit., p. 2.

<sup>585</sup> *Ibidem.*

<sup>586</sup> Pospieszna, op. cit., p. 3.

<sup>587</sup> *Ibidem.*

success in the implementation of the development goals.<sup>588</sup> Therefore, a multidisciplinary approach which link material, mental and legal empowerment are needed from the part of the democratic countries.<sup>589</sup> Those assertions have been used to present women as a core point of the appeasement strategy of the Coalition, however those argument have been subjected to military and political manipulations. The States that waged war on terror had to legitimize their coming actions in the eyes of the public, so they played on the emotions of the general public to brush up the media propaganda, as they already did during the Vietnam War.<sup>590</sup> One of the pretexts capitalized in the current conflict has been the misuse of the Afghan female situation, mostly from the part of the Americans.<sup>591</sup> Truthfully, Delphy underlines that women's rights have never been a US's concern, since during the conflict with the Soviets they subsidized economically the mujahideens who were already trying to impose restrictions on women liberties in the name of *sharia* laws.<sup>592</sup> In fact a documentary named *Femmes de Kaboul* showed how the repressions of female freedoms started before the so-called liberation and increased exponentially under the Taliban regime.<sup>593</sup> Actually, the situation of the Afghan women was better under the Marxist and Pro-Soviet government the Americans helped to overturn, since they could go out unveiled in westernized cloths and work in different fields.<sup>594</sup> Another captious motivation that has been used, concerned the implicit and ruthless idea that for these women it would have been better to die under the bombings of the Coalition, or out of hunger provoked by war deprivation, than to live enslaved under the Taliban rules.<sup>595</sup> This is a great paradox where one more time the dominants decide unilaterally that they are

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<sup>588</sup> *Ivi*, p. 4.

<sup>589</sup> *Ivi*, p. 5. The material empowerment enables women to practice rights, the mental empowerment motivates them to practice their rights and the legal empowerment allows them to practice their rights.

<sup>590</sup> OSCE, op. cit., p. 65.

<sup>591</sup> *Ivi*, p. 69.

<sup>592</sup> *Ivi*, p. 83.

<sup>593</sup> *Ivi*, p. 85.

<sup>594</sup> *Ivi*, p. 87.

<sup>595</sup> *Ivi*, p. 90.

the solely who know exactly what is the best solution for these populations, or parts of them. Bourdieu would have said that it is because the submitted, the women in this case, are so accustomed and besotted by their condition that they aren't able to recognize the actual nature of their situation,<sup>596</sup> so they need an external guide who could fight for them.<sup>597</sup> This position holds a subtle patriarchal presumption that, maybe, the philosopher could not envisage and that Delphy criticized openly.<sup>598</sup> This perspective could be defined as the missionary paradox.<sup>599</sup> In the past the interventions were called civilization missions and now they have assumed the name of peacekeeping missions or duty to intervene.<sup>600</sup> Actually, every nation-state should decide on its own the best solution for its political problems, because it will be that particular population who will have to pay the costs,<sup>601</sup> and the same reasoning should be applied to the gendered relationships. This patriarchal sense of mightiness directed against the Others, whose lives are always less worthy,<sup>602</sup> had produced a tremendous counter-effect in the Middle East, cutting the supplies to a population who was dying of hunger while arming the warlords who dreamed of privileges, conquests and massacres.<sup>603</sup>

Another example of this arrogance could be envisaged while discovering the French case of the Islamic veil, or headscarf, that endured a new dimension in other European countries after the Paris attacks.<sup>604</sup> For instance, on the 10 of December 2015 Roberto Maroni, the governor of Lombardy and exponent of the Lega Nord, decreed for security reasons that the *niqab* and the *burqa* could not be wore to enter both a public structure or an hospital.<sup>605</sup> The veil has been

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<sup>596</sup> Bourdieu, op.cit., p. 7.

<sup>597</sup> *Ibidem*.

<sup>598</sup> Delphy, op. cit., p. 23.

<sup>599</sup> *Ivi*, p. 99.

<sup>600</sup> *Ivi*, p. 95.

<sup>601</sup> *Ivi*, p. 92.

<sup>602</sup> *Ivi*, p. 96.

<sup>603</sup> *Ivi*, p. 95.

<sup>604</sup> *Ivi*, p. 101.

<sup>605</sup> A. Nasso, *La Lombardia vieta burqa e velo in ospedale, Maroni: "Proibito entrare a volto coperto"*, on Repubblica TV, the 10 of December 2015, <http://video.repubblica.it/edizione/milano/la-lombardia->

assumed to be a symbol of oppression without envisaging it from a cultural perspective so, implicitly, whoever choose deliberately to wear it is labelled as an alienated and manipulated person.<sup>606</sup> So, apparently, to free the French Muslim women and to ensure preventive measures to defend the nation from a possible future attack, the French government thought to ban the veil from the schools, undermining at the same time the freedom of this children to pick up freely their religious and external habit.<sup>607</sup> Without any reasonable logic these innocent girls have been classified as a potential threat to the nation.<sup>608</sup> At the same time this policy undermined the relationships between the North African community, which has been living for decades in the country, and France itself.<sup>609</sup> Honestly, some of the active female supporters of the current ISIS organization really pertain to a young part of the population, but the reasons that pushed them to embrace this ideological fight are way more complexes, and aren't related only to their cultural heritage.

This social case permits to lighten up the fact that the ideological war between the Western forces and the terrorists is a conflict between two patriarchal societies. In both realities women have always been considered inferior to men and, in order to satisfy their function of material properties, they have been repeatedly exploited to weaken one of the factions that took part in a conflict through the use of abduction, rape and murder to stop the reproductive cycle.<sup>610</sup> In the above mentioned resolution there is a part where the Member States of the ONU reaffirmed the condemnation of sexual violence as a used or commissioned method or tactic of war,<sup>611</sup> that makes the duty to respect the integrity of the physical person a bounding rule under the international humanitarian law and the human rights law. Unfortunately, these instructions

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[vieta-burqa-e-velo-in-ospedale-maroni-proibito-entrare-a-volto-coperto/221587/220793](https://www.un.org/press/docs/2015/201502/20150201.vieta-burqa-e-velo-in-ospedale-maroni-proibito-entrare-a-volto-coperto/221587/220793). Online Access: 02/01/2015.

<sup>606</sup> Delphy, op. cit., p. 101.

<sup>607</sup> *Ivi*, p. 102.

<sup>608</sup> *Ivi*, p. 103.

<sup>609</sup> *Ibidem*.

<sup>610</sup> *Ivi*, p. 110.

<sup>611</sup> UN SC Resolution 2242/2015, op. cit., p. 2.

tend to be broken by both the legitimate and the illegitimate forces which are fighting in a conflict. If we now reclaim the specific case of the French veil we can see that we are facing other two major problems. The first is related to the supposed social immobility that originates frustration in second and third generations of immigrants, since they envisage an incapability to change the social status they have inherited from their parents.<sup>612</sup> The second is particularly focused on Muslim women who have to face a double discrimination based on their unprivileged position as females with the aggravating factor of their racial origins and their inability to leave their families to pass to the straight side of the society.<sup>613</sup> Indeed, those women are pushed to abandon the barbaric and brutal reality they are supposed to live in, but the Western state could not assure to them any further protection, since they do not pertain to the right side of the population.<sup>614</sup> They would be blamed for either decision they will took. If they align with their cultural roots they will be see as unworthy of the Western efforts but, if they choose the “civilized” path they will always be considered as second class citizens.<sup>615</sup> These paternalistic ideas are sometimes adopted also by the Western white feminists who lack the right empathy to identify with the positions of Arab and Black women.<sup>616</sup>

The “racialized” feminists claim their desire to continue their campaigns without subordinating to a perceived dominant feminist group,<sup>617</sup> demonstrating how feminism could be nuanced and how maybe in the First World its real essence has been forgotten. Black and Arab feminists refuse to distance from the men of their racialized discriminated groups, because the aim of the struggle is the same, that is the recognition of the respect of the individual rights to enjoy a lawful protected life.<sup>618</sup> They also specify that this

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<sup>612</sup> Delphy, op. cit., p. 113.

<sup>613</sup> *Ivi*, p. 117.

<sup>614</sup> *Ivi*, p. 143.

<sup>615</sup> *Ibidem*.

<sup>616</sup> *Ivi*, p. 160.

<sup>617</sup> *Ibidem*.

<sup>618</sup> *Ivi*, p. 157.

condition is actually graver than the one of the women of the cultivated countries.<sup>619</sup> Even if this position has solid bases, the feminist movement should not ethnicized the patriarchal reality of the undemocratic countries on the basis of their traditionalism, religious background or philosophical principles, as the French feminist Élisabeth Badinter did,<sup>620</sup> because the human race is more similar than we might think and most of the factors that contributed to the social construction in the East are the same used in the West. Even if it is theoretically correct to state that the violence against women is contrary to the principle of the democratic societies the reality is much more coarse.<sup>621</sup>

Going back to the headscarves problem would also permit to introduce the issue related to the sexualization of the female body. The quarrels about the possibility to wear or not the veil demonstrate how the female's imaginary is always predisposed on the prominent male urge.<sup>622</sup> When a woman is asked to cover up her body, she is accused to fulfill the male conservative idea in which she need to be protected from the lust of every man who could lie an eye on her.<sup>623</sup> On the contrary, when she follows the Westernized society that pushes her to sensualize her dressing code and gestures, she is pointed at as an example of the iper-sexualization of the contemporary society where the female body is revealed to please the men's sight.<sup>624</sup> Delphy resumed this contradiction in a simple phrase that is "in both cases the reference point for women's thinking and bodies is men's desire".<sup>625</sup> In any case, even if in both situations the woman is not free to choose how to behave without contradicting the social opinion, the second path is always assumed to be the most tolerant one, since it is aimed at women's freedom. In both the above-mentioned situations the concept of acceptance is not present, instead tolerance is highly pursued. In

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<sup>619</sup> *Ibidem.*

<sup>620</sup> *Ivi*, p. 165.

<sup>621</sup> *Ibidem.*

<sup>622</sup> *Ivi*, p. 141.

<sup>623</sup> *Ibidem.*

<sup>624</sup> *Ibidem.*

<sup>625</sup> *Ivi*, p. 120.

other words, even if in the dominant vision both chooses would undergo a social stigmatization the democratic dominant countries are predominant and based on the freedom of speech, religion and expression, so they will be kind enough to permit formally the presence of traditionalistic cultures, but unofficially since they thought the others are congenitally wrong they will remind them constantly to be ashamed of their nature.<sup>626</sup> The veil problem has also been exploited by the Western society to mask its own sexism, presenting one that is considered crueler.<sup>627</sup> This selectivity of the presentation of the sexual violence will permit to put blame only on one group and to exonerate the other,<sup>628</sup> deepening the gap between the white and the immigrated population. A current example could be represented by the recent facts that occurred during the New Year's Eve in Cologne (and in other European cities apparently, but the investigations are still undergoing), where the German police has received numerous reports on a mass sexual assaults on dozen of women perpetrated by men that appeared to pertain to Arab or North African countries.<sup>629</sup> These facts are being exploited by numerous political and social movements to tighten the grip on the immigration policies,<sup>630</sup> and the vindication of these mass sexual assaults has not been made yet.<sup>631</sup> Exalting the violence perpetrated by a particular type of ethnicity the fear of the known is replaced with the fear of the unknown.

Sometimes women fight against the male stereotypes that have been built for them but other times they conform to it believing to make a non-conformist choice, as in the case of the female ISIS supporters.

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<sup>626</sup> *Ivi*, p. 121.

<sup>627</sup> *Ivi*, p. 143.

<sup>628</sup> *Ivi*, p. 156.

<sup>629</sup> J. Staufenberg, *German Police search for 1,000 men after mass sexual assaults in Cologne. Police said some of the attackers were known to them already*, on The Independent Online, 6 of January 2016, <http://www.independent.co.uk/news/world/europe/german-police-search-for-1000-men-after-mass-sexual-assault-in-cologne-a6797126.html>. Online Access: 09/01/2016.

<sup>630</sup> K. Connolly, *Tensions rise in Germany over handling of mass sexual assaults in Cologne*, on The Guardian Online, 7 of January 2016, <http://www.theguardian.com/world/2016/jan/06/tensions-rise-in-germany-over-handling-of-mass-sexual-assaults-in-cologne>. Online Access: 09/01/2016.

<sup>631</sup> *Ibidem*.

### 3.3 ISIS and Its Brides

The OSCE (Organization for Security and Co-operation in Europe) held two roundtables on women and terrorist radicalization in Vienna, respectively on the 12 of December 2011 and on the 12-13 of March 2012.<sup>632</sup> In those meetings they tried to understand the reasons for women radicalization and their roles in the preventive domain.<sup>633</sup> Those scholars stressed out that some common pattern's would be useful but, as women follows different radicalization paths, "it is crucial to take into account the specific historical, social, political and personal contexts of each case".<sup>634</sup> Usually, in the specific generalized conditions conducive to terrorist radicalization of women it is possible to include gender-based inequality and discrimination, violence, lack of education and economic opportunities.<sup>635</sup> Through two reports of the London Institute for Strategic Dialogue (ISD) is possible to have a deepest vision of the women's strategic position in the propaganda system of the ISIS organization. The authors also revealed that some of the motives fund by the OSCE group could be insignificant in the radicalization process. The first study, *Becoming Mulan? Female Western Migrant to ISIS*, gave credit to Carolyn Hoyle, who worked in The Hague for the Institute for Historical Justice and Reconciliation, Alexandra Bradford, who collaborates with the board of Walking With the Wounded and with Women for Women International and to Ross Frenett, the Director of the network Against Violent Extremism (AVE). The second, which presents a more detailed approach to the issue, was named *Till Martyrdom Do Us Part. Gender and the ISIS Phenomenon*, and it was put together by two researchers of the ISD, Erin Marie Saltman and Melanie Smith who are working at the *Women and Extremism* (WaE) program launched in January 2015.<sup>636</sup> These

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<sup>632</sup> OSCE, op. cit., p. 1.

<sup>633</sup> *Ibidem*.

<sup>634</sup> *Ivi*, p. 3.

<sup>635</sup> *Ibidem*.

<sup>636</sup> The *Women and Extremism* (WaE) program was launched in January 2015 at the Institute for Strategic Dialogue with the purpose of addressing the blind spot women have been for the policy,

two papers expressed the intention of the scientific community to approach the problem of female radicalization with a more scrutinizing eye, however the research is still underway.

First and foremost, it is now well documented that the male foreign fighters migration is sided with another less consistent female one. The Western governments have signaled that of the 3000 average potential radicalized people who migrated to warzones such as Syria and Iraq, 550 of them were women who wanted to contribute to the ISIS state-building efforts.<sup>637</sup> The women that were took into consideration in these studies mostly came from Western countries and, since a significant amount of them are English speakers,<sup>638</sup> the authors specified that they intended to indicate as Westerns places Europe (with the exclusion of Russia and Turkey), the United States, Canada, Australia and the New Zealand.<sup>639</sup>

These females migrants cannot be called foreign fighters since, according to ISIS interpretation of the *sharia* law, women are expressly forbidden to join any violent activity.<sup>640</sup> So, they could be generally described with the Arabic term *muhajirah* (singular) or *muhajirat* (plural).<sup>641</sup> Women are often assumed to be passive agents, following the old-fashioned male ideal of female submission but, actually, they are playing a significant active role in the contemporary terrorist organizations.<sup>642</sup> Those women have been utilized for a wide range of

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academic and think tank sectors in the evolving challenge of global extremism. The WaE program aims to: bring together a multi-sectoral brain trust on the topic of women and extremism, develop an action and research program to assess the evolving agency of women in extremist movements, cultivate innovation labs to analyse and grow the role of female narratives and counter- narratives in countering violent extremism. (Institute for Strategic Dialogue website).

<sup>637</sup> C. Hoyle, A. Bradford, R. Frenett, *Becoming Mulan? Female Western Migrant to ISIS*, Institute for Strategic Dialogue, London, 2015, p. 8.  
[http://www.strategicdialogue.org/ISDJ2969\\_Becoming\\_Mulan\\_01.15\\_WEB.PDF](http://www.strategicdialogue.org/ISDJ2969_Becoming_Mulan_01.15_WEB.PDF). Online access: 19/12/2015.

<sup>638</sup> E.M. Saltman, M. Smith, *Till Martyrdom Do Us Part. Gender and the ISIS Phenomenon*, Institute for Strategic Dialogue, London, 2015, p. 7.  
[http://www.strategicdialogue.org/Till\\_Martyrdom\\_Do\\_Us\\_Part\\_Gender\\_and\\_the\\_ISIS\\_Phenomenon.pdf](http://www.strategicdialogue.org/Till_Martyrdom_Do_Us_Part_Gender_and_the_ISIS_Phenomenon.pdf). Online Access: 19/12/2015.

<sup>639</sup> *Ivi*, p. 9.

<sup>640</sup> *Ibidem*.

<sup>641</sup> *Ibidem*.

<sup>642</sup> E.M. Saltman, M. Smith, op.cit., p. 4.

activities, including logistics, recruitment, political safeguarding operations and suicide bombings.<sup>643</sup> There are two main categories of women who make this *hijra*, this migration, to join ISIS and they are divided between the alone travelers and the escort travelers.<sup>644</sup> The last ones are usually the brides of a male ISIS supporter and they travel with him and their possible children to adjust to the Islamic idealistic idea of domestic perfection.<sup>645</sup> On the other hand, the women who travel alone are mainly driven by three distinct reasons: the perception of the oppression of the Muslim community throughout the world,<sup>646</sup> the possibility to embrace and to contribute to the building of a new world vision based on a Caliphate,<sup>647</sup> and the mandatory holy duty based on the conception that a real believer need to fight for the protection of its own religion.<sup>648</sup> Moreover, it is possible to envision in them a responding attitude driven by anger and frustration against the lack of intervention of the international community. Another consistent percentage of women who join the terrorist organizations want to contrast the social and cultural isolation they have been subjected in the Western world.<sup>649</sup> Indeed, some of them demonstrated to have experienced verbal or physical abuses on the basis of their ethnic identity.<sup>650</sup> At a first sight, these reasons are equivalent to the ones used by the foreign fighters to embrace the fight in a more active and military way. Nonetheless, further studies demonstrated a significant diversity within the profiles of the women migrant involved in terrorism, based on a high level of nuances and complexities,<sup>651</sup> so it could be wrong and reductionist to call them "*jihadi brides*",<sup>652</sup> as some intellectuals did.

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<sup>643</sup> *Ibidem*.

<sup>644</sup> C.Hoyle, A. Bradford, R. Frenett, op. cit., p. 10.

<sup>645</sup> *Ibidem*.

<sup>646</sup> *Ivi*, p. 11.

<sup>647</sup> *Ivi*, p. 12.

<sup>648</sup> *Ivi*, p. 13.

<sup>649</sup> E.M. Saltman, M. Smith, op.cit., p. 9.

<sup>650</sup> *Ibidem*.

<sup>651</sup> *Ivi*, p. 69.

<sup>652</sup> *Ivi*, p. 5.

The argument related to the victimization of the Muslim population under a Western oppression is introduced to them by ISIS online propaganda. Their empathy for the bombing, the torturing and the violence in general against the Muslim victims is reinforced with the showing of cruel photos and narratives and then diverted into rejection towards the perpetrators.<sup>653</sup> For instance, these female supporters use to post on their online accounts a huge amount of images related to children who have been injured or disfigured in some violent attacks, usually carried out by the Israeli army.<sup>654</sup> They link these atrocities to the complicity of the Western powers which are silently permitting these slaughtering, so they start to feel the thrust to seek and built an alternative society.<sup>655</sup> This safe-haven is represented by the Caliphate, a place where they can live honorably under the *sharia* law respecting the Islamic religion.<sup>656</sup>

There is a sort of romanticisation in the depiction of the experience of migration, full with adventure and possibility to find a brave husband in a perfect utopic place.<sup>657</sup> This possibility to became a faithful and caring wife is also presented as a possibility to empower the role of the females migrants, since the important task to ensure the birth of the next generation of mujahideens lays on their shoulders.<sup>658</sup> The basic message is that ISIS values women not as sexual objects but as active human beings.<sup>659</sup> The hope that they could contribute actively to the state-building through their roles of caring wives, mothers, nurses or teachers, is only a part of the terrorist lying propaganda,<sup>660</sup> published on their online magazine *Dabiq* in a specific section addressed directly to their "sisters of the Islamic State".<sup>661</sup> Women are depicted in this Islamic society as the guardians of the faith and, in fulfilling those duties,

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<sup>653</sup> *Ibidem*.

<sup>654</sup> C.Hoyle, A. Bradford, R. Frenett, op. cit., p. 11.

<sup>655</sup> *Ibidem*.

<sup>656</sup> *Ivi*, p. 12.

<sup>657</sup> E.M. Saltman, M. Smith, op.cit., p. 16.

<sup>658</sup> *Ibidem*.

<sup>659</sup> *Ivi*, p. 18.

<sup>660</sup> C.Hoyle, A. Bradford, R. Frenett, op. cit., p. 13.

<sup>661</sup> E.M. Saltman, M. Smith, op.cit., p. 18.

they are told they could be rewarded in the afterlife with a safe place in heaven.<sup>662</sup> On the other hand, similarly to their male counterparts, after their travel to join ISIS the women are rewarded with material gains that are presented as a blessing provided by their fellows comrades who thanks them for their involvement.<sup>663</sup>

The first study that was mentioned enlightens the role the families, the mothers in particular, could have in stopping this migration, thanks to their strong emotional pressure and material influence on their daughters.<sup>664</sup> Unfortunately, one of the main psychological features of these radicalized subjects is the perseverance.<sup>665</sup> Even when they occurred to be stopped at the Turkish borders, where they are invited to return to their home countries, they insist and make other attempts and finally they reach their goals.<sup>666</sup> Furthermore, the administrative machine of the Islamic State provide the migrants with a legal help if they happen to be stopped by the Turkish border authorities or by the Free Syrian Army.<sup>667</sup> When they arrives in those territories, the unmarried women have to stay in a women's hostel called *maqqa* where the administration pay for their free housing, consumes, food supply and provision of a monthly allowance.<sup>668</sup> Instead the married ones can have a house to live in with their husbands.<sup>669</sup>

Anyhow, the reality of the everyday life under ISIS is not so positive as they might depict it, both in a practical and ideological dimension. They could endure inconveniences that are normal in a warzone, like variable electricity and diminished Internet access.<sup>670</sup> Ideologically speaking, they could not escape from the main patriarchal way of living that is typical of the fundamentalist

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<sup>662</sup> C.Hoyle, A. Bradford, R. Frenett, op. cit., p. 13.

<sup>663</sup> *Ibidem.*

<sup>664</sup> *Ivi*, p. 16.

<sup>665</sup> *Ivi*, p. 20.

<sup>666</sup> *Ivi*, p. 19.

<sup>667</sup> *Ibidem.*

<sup>668</sup> *Ivi*, p. 21.

<sup>669</sup> *Ibidem.*

<sup>670</sup> *Ibidem.*

male dominion. Their life is a predominantly domestic one, since to demonstrate to follow positively the Quran women should be as righteous as they are supposed to be.<sup>671</sup> For instance, one of these women Umm Ubaydah wrote that “the best thing a man can do is jihad and the best thing for a women is to be a righteous wife and to raise righteous children”.<sup>672</sup> Their outside life is very restricted, since every time they want to go outside they should have a male chaperone or they should move in group,<sup>673</sup> so every girl who wants to move to ISIS territory without the idea of getting married is dissuaded to undertake the voyage.<sup>674</sup> Moreover, some of them lamented to be left alone after they became widows of a mujahideen fighter, so after that experience some of them try to go back to their home countries.<sup>675</sup> The death of an husband could be used by the governments as a key turning point to pressure the de-radicalization of these women.<sup>676</sup>

One of the positive aspects that are used online to lure more women to join ISIS is the sense of belonging they feel when they live together with others females who share their ideas and values.<sup>677</sup> They talk about a great sense of friendship, or sisterhood, they found in the company of these migrants,<sup>678</sup> opposing it to the fake relationships they experienced in the Western society.<sup>679</sup> However, they seem to make friends only with other migrants, due to the fact that they usually do not know neither the language of the region or the traditions.<sup>680</sup> Sometimes they could feel isolated from the local community they thought to be part since they could experience mistreatment and discrimination from the part of the Syrians who do not support ISIS.<sup>681</sup> So, because of this

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<sup>671</sup> *Ivi*, p. 22.

<sup>672</sup> *Ivi*, p. 31.

<sup>673</sup> *Ivi*, p. 23.

<sup>674</sup> *Ibidem*.

<sup>675</sup> *Ibidem*.

<sup>676</sup> *Ivi*, p. 27.

<sup>677</sup> *Ibidem*.

<sup>678</sup> *Ivi*, p. 24.

<sup>679</sup> *Ibidem*.

<sup>680</sup> *Ibidem*.

<sup>681</sup> *Ivi*, p. 25.

behavior these migrants who were seeking for acceptance in another country, assumed to be nearer to their traditions, could be rejected on the basis of their foreign status.<sup>682</sup>

A particular asset of these women is their relation with the concept of violence. From the one hand they seemed stroked and outraged by the violence hitting their akin and fellow Islamic supporters.<sup>683</sup> On the other hand they ask for more brutality against their supposed enemies, the *kaafir* (non-believers), justifying its use with the words of the Quran.<sup>684</sup> They appear to be desensitized in front of the horrific nature of the violent, directing their anger against different targets like the regime of Bashar al-Assad, the Shia Muslims, the Israeli government and the West in general.<sup>685</sup> They celebrate the violence and some of them demonstrate their desire to actively inflict it with their own hands.<sup>686</sup> There is a strong contradiction in those women who wants to fight directly on the frontline but, at the same time, try to be more traditionalistic. For instance, the already mentioned Umm Ubaydah blamed the Palestinian women for their suicide bombing attacks, but at the same time she wondered to be “a Mulan and enter the battlefield”.<sup>687</sup> The men reiterate the supposition that women should not be allowed to the fighting field since it is not women’s role.<sup>688</sup> However, ISIS combatants and propagandists are clever enough to leave a space for future possibilities to that to happen, so they could continue to tempt women.<sup>689</sup> The online presence of the *muhajirat* could be really dangerous for the West, since the women who actually reached the Syrian territories provide help and suggestions for the trip,<sup>690</sup> or exhort who cannot leave to remain in their homeland to carry out terrorist and supporting actions directly on the enemy’s

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<sup>682</sup> *Ibidem.*

<sup>683</sup> *Ivi*, p. 29.

<sup>684</sup> *Ibidem.*

<sup>685</sup> *Ivi*, p. 30.

<sup>686</sup> *Ivi*, p. 31.

<sup>687</sup> *Ivi*, p. 32.

<sup>688</sup> *Ibidem.*

<sup>689</sup> *Ivi*, p. 33.

<sup>690</sup> *Ivi*, p. 34.

territory.<sup>691</sup> Hoyle, Bradford and Frenett tried to devise a possible future for these women and their possible influences in their home countries. These authors tried a comparison with the Chechen conflict where the female population had to overthrow the original patriarchal structure taking the control of the violent operations because the men had already died in the past actions.<sup>692</sup> These women have already become desensitized to extreme violence and the death of male fighters and innocent children could become a potential trigger to change their role,<sup>693</sup> even if the Islamic law formally does not permit it. Until this moment this has not happened but things are changing quickly.

The attitudes of these women are really variegated but, apparently, a large part of them is taken from a particular range of age that goes from 14 to 25 years old.<sup>694</sup> They are most easily influenced by the above-mentioned factors and they are for the most part well integrated in the Western society and have a strong educational background.<sup>695</sup> This last conclusion literally overturn the estimations of the previous OSCE positions. For instance, the experiences of the Halane twin sisters Salma and Zahra, of Zehra Duman and Amira Base, demonstrate that they have been lured into ISIS because of their parental influence which become crucial and obscured their English based public schools formation and relations with non-Muslim people.<sup>696</sup> Observing their profiles on the social networks they seem over-excited by ISIS propaganda and actions, and present only the good aspects of their staying.<sup>697</sup> On the contrary, another more mature woman, known with the pseudonym of Shams, while defending the sacredness of ISIS life-style, is soberer in presenting the victories of its Muslim brothers and she is not afraid to enlighten also the weak point of the state organization.<sup>698</sup> She is a particular case since her role in the territory is to be a

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<sup>691</sup> *Ibidem.*

<sup>692</sup> *Ivi*, p. 35.

<sup>693</sup> *Ivi*, p. 36.

<sup>694</sup> *Ibidem.*

<sup>695</sup> E.M. Saltman, M. Smith, *op.cit.*, pg 20.

<sup>696</sup> *Ivi*, p. 20, p. 27 and p. 44.

<sup>697</sup> *Ivi*, p. 20.

<sup>698</sup> *Ivi*, p. 37.

doctor.<sup>699</sup> She is one of that female that dissuade others to go to Syria if they are not strong motivated, even if she declares on her online statements that being in there permitted her to climb the social scale.<sup>700</sup>

### 3.4 ISIS and Its Sex Slaves

The female world that gravitates around ISIS organization is not only based on the *muhajirat*, who devoted themselves willingly to the Jihad and are treated accordingly. There is another reality where the exploitation of the female body is made more evident and less idolized. A lot of reports produced by international non-governmental organizations like Amnesty International, Human Rights Watch and interviews undertaken by international media like the CNN, the Daily Mail, The New York Times, the Telegraph, the Mirror and other newspapers showed how the female of the catholic minorities of the Iraqi and Syrian regions are sexually abused and forced into marriage with the mujahideens.

Apparently, the first organization to release on December 2014 a study on the issue, entitled *Escape from Hell. Torture and sexual slavery in Islamic State Captivity in Iraq*, was Amnesty International. The activists of Amnesty reported that a lot of Yazidi women and girls have been subjected to enslaving and were sold or donated to other terrorist fighters in the Iraqi and Syrian areas.<sup>701</sup> Mostly 300 of those abducted sex slaves managed to escape from ISIS control, but the majority of them still rest under the hands of the terrorists and they are moved from place to place to make their presence untraceable.<sup>702</sup> Amnesty reminds in this written paper that the abduction, the torture and the sexual abuse of any

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<sup>699</sup> *Ibidem*.

<sup>700</sup> *Ivi*, p. 39.

<sup>701</sup> Amnesty International, *Escape from Hell. Torture and sexual slavery in Islamic State Captivity in Iraq*, London, United Kingdom, December 2014, p. 4.

[https://www.amnesty.org.uk/sites/default/files/escape\\_from\\_hell\\_-\\_torture\\_and\\_sexual\\_slavery\\_in\\_islamic\\_state\\_captivity\\_in\\_iraq\\_-\\_english\\_2.pdf](https://www.amnesty.org.uk/sites/default/files/escape_from_hell_-_torture_and_sexual_slavery_in_islamic_state_captivity_in_iraq_-_english_2.pdf). Online access: 20/12/2015.

<sup>702</sup> *Ibidem*.

human being is to be considered a crime against humanity and a war crime to which we can add the physical, sexual and working abuses on childhood.<sup>703</sup> Similarly to the willing brides of the jihadists, the majority of the traded girls seems to pertain to an average age situated between 14 to 25 years old, with obvious fluctuation due to particular cases.<sup>704</sup> Moreover, the sporadic information that the relatives of the abducted victims are able to receive testify their systematic physical and psychological torture, including rape and sexual abuses and even the ones who did not experienced direct physical abuse reported to endure constant threats and pressures.<sup>705</sup> Some witnesses said that some of the mujahideens do not care about the restrictions put on married or pregnant women and tried to force them to have an intercourse.<sup>706</sup> Some of the girls cannot bear to be dishonored so they commit suicide to escape that psychological torture, or they live in the fear to commit it one day when they will not be able anymore to fight the memories.<sup>707</sup> The victims who escaped the savagery of the ISIS fighters are living under a situation of distress, since they have to cope both with the sexual trauma and the views of their relatives killed in front of their eyes.<sup>708</sup> According to the testimonies, the majority of the rapers were Iraqi or Syrians citizens, but some were from Arabic-speaking countries and one of them was an Australian fighter of Lebanese origins,<sup>709</sup> who has been mentioned also in the second report of the ISD.<sup>710</sup> Some locals of Mosul and Tal'Afar told to Amnesty that in the trade are implicated also some local businessman who provide the girls for an unclear amount of money.<sup>711</sup> Hopefully, there are also some good narratives that told about fighters who

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<sup>703</sup> *Ibidem.*

<sup>704</sup> *Ibidem.*

<sup>705</sup> *Ivi*, p. 6.

<sup>706</sup> *Ivi*, p. 7.

<sup>707</sup> *Ivi*, p. 8.

<sup>708</sup> *Ivi*, p. 13.

<sup>709</sup> *Ivi*, p. 9.

<sup>710</sup> E.M. Saltman, M. Smith, *op.cit.*, p. 29.

<sup>711</sup> Amnesty International, *Escape from Hell*, *op. cit.*, p. 9.

bought some of these girls to help them to return to their families.<sup>712</sup> Nonetheless, this demonstrate how ISIS is perpetrating an ethnic and religious cleansing in the Northern part of Iraq, targeting in particular Muslims Shia, Assyrian Christians, Turkmens Shia, Shabak Shias, Yezidis, Kakai and Sabeian Mandaean.<sup>713</sup>

On the 5 of September 2015 Kenneth Roth, Executive Director of Human Rights Watch, published an article on the site of his organization entitled *Slavery: the ISIS rules*, where he tried to approach this delicate argument through his personal point of view. He started proclaiming that, usually, people who commit this violations of basic human rights attempt to hide their activities, since they could be criminally prosecuted.<sup>714</sup> Opposing to that narratives, the Islamic State publicly attempts to justify its sexual subjugation of non-Muslims women and girls, especially the Yazidi women who were interviewed and testified their organized rape, sexual assault, sexual slavery and forced marriage.<sup>715</sup> For the mujahideens the apology of rape is based on an interpretation of the *sharia* laws and it is far from mere licentiousness, since it is filled with legal constraints. The Islamic State calls these infidels women as *al-Sabi*, opposing them to *kitabiyat* (Christians and Jewish women), and they are made sexually available for Islamic men by the postulate of the *imams* who plays on their inferior condition of unbelievers of the Muslim religion.<sup>716</sup> It is permissible to have sex with a female captive under the passage 23:5–6 of the Quran as “[successful are the believers] who guard their chastity, except from their wives or (the captives and slaves) that their right hands possess, for then they are free from blame”.<sup>717</sup> The fighter is permitted to have immediate intercourse with the captive if she is a virgin, otherwise she need to be purified

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<sup>712</sup> *Ivi*, p. 10.

<sup>713</sup> *Ivi*, p. 11.

<sup>714</sup> K. Roth, *Slavery, the ISIS rules*, on the website of Human Rights Watch, published on the 5 of September 2015, <https://www.hrw.org/news/2015/09/05/slavery-isis-rules>. Online access: 20/12/2015.

<sup>715</sup> *Ibidem*.

<sup>716</sup> *Ibidem*.

<sup>717</sup> *Ibidem*.

first.<sup>718</sup> Moreover, “it is permissible to buy, sell, or give as a gift female captives and slaves, for they are merely property, which can be disposed of as long as that does not cause [the Muslim ummah] any harm or damage.”<sup>719</sup> However, it is apparently prohibited to share the same slave with other comrades as it is forbidden to have multiple sex slaves, and she cannot be sell if she got pregnant of his capturer, at least until he dies in the holy battlefield and his belongings are distributed between the others.<sup>720</sup> Maybe one of the most negative parts of this ideology lies on the fact that is permitted to have intercourse with a female slave who has not reached the puberty yet, if she is fit for the intercourse.<sup>721</sup> Furthermore, it is possible to beat her only if it means to be disciplinary, it is forbidden to break bones or achieve gratification.<sup>722</sup> When a slave attempts to run away from her master commits a great sin, so she will be punished according to the *sharia* laws in order to make of her an example.<sup>723</sup>

Rukmini Maria Callimachi, a *New York Times* journalist, wrote an article on the 13 of August 2015, *Isis Enshrines a Theology of Rape*, that is reported as one of the first public media articles on the argument. She started presenting the tale of a 12 years old girl who was raped by a fighter who, before committing the act, took his time to explain her how the Quran condoned and encouraged his act on the basis that she was an infidel.<sup>724</sup> The author reported that almost twenty-one Yazidi girls have been interviewed to recreate the infrastructure of this business in the best way possible.<sup>725</sup> There is a real organizing structure behind the trade of these sexual slaves which put into being a series of warehouses were they are detained, inspected and marketed and the Islamic State courts

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<sup>718</sup> *Ibidem.*

<sup>719</sup> *Ibidem.*

<sup>720</sup> *Ibidem.*

<sup>721</sup> *Ibidem.*

<sup>722</sup> *Ibidem.*

<sup>723</sup> *Ibidem.*

<sup>724</sup> R. M. Callimachi, *Isis Enshrines a Theology of Rape*, for the *New York Times* online, published on the 13 of August 2015, [http://www.nytimes.com/2015/08/14/world/middleeast/isis-enshrines-a-theology-of-rape.html?\\_r=0](http://www.nytimes.com/2015/08/14/world/middleeast/isis-enshrines-a-theology-of-rape.html?_r=0). Online access: 20/12/2015.

<sup>725</sup> *Ibidem.*

has also notarized their contracts of slavery.<sup>726</sup> It has been registered that a total of 5,270 Yazidis were abducted last year, and at least 3,144 are still being held.<sup>727</sup> This trade is exploited to lure in the organization young male fighters who come from conservatives environments where occasional sex and dates are forbidden.<sup>728</sup> Callimachi appointed the introduction of this systematic sexual exploitation to the 3 of August 2014 when ISIS invaded the territory of Mount Sinjar in the Northern part of Iraq where the Yazidi minority lives.<sup>729</sup> It was a territorial and sexual gain, since the male Yazidi population was exterminated after the conquest.<sup>730</sup> Some Yazidi activists sustain that this operation was carefully planned in advance and even the treatment of the girls who have been deported demonstrates the premeditation of the entire operation.<sup>731</sup> A few months later, the terrorist fighters openly confirmed the planning of this action on *Dabiq*.<sup>732</sup> The article underlines another way the Muslim fighters used to call these sexual victims that is *sabaya*, which literally means slave, and this title is followed by their names.<sup>733</sup> For the moment the local Islamic sex trade seems to be directed only against the women of the Yazidi minority, there is no other hint that they will do the same to other religious or ethnic minorities.<sup>734</sup> Apparently, this repressive action is directed specifically against the Yazidi group because they are seen as polytheists, so they are perceived as more corrupted than the Catholics or the Jewish.<sup>735</sup> When a man decides he wants to set free his sexual slave he should give her a laminated piece of paper that is labeled "Certificate of Emancipation" signed by the judge of the Western province of the Islamic State.<sup>736</sup> So, when the woman arrives at a check-point, to

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<sup>726</sup> *Ibidem.*

<sup>727</sup> *Ibidem.*

<sup>728</sup> *Ibidem.*

<sup>729</sup> *Ibidem.*

<sup>730</sup> *Ibidem.*

<sup>731</sup> *Ibidem.*

<sup>732</sup> *Ibidem.*

<sup>733</sup> *Ibidem.*

<sup>734</sup> *Ibidem.*

<sup>735</sup> *Ibidem.*

<sup>736</sup> *Ibidem.*

cross the borders of ISIS controlled territory, she needs to show that document to be free to pass.<sup>737</sup>

### 3.5 The Importance of Counter-Narratives

According to the narratives described so far, it is possible to declare that one of the most recurring factors, both in the luring of male and female radicalized people, is the lack of a sense of belonging, fueled by the discrimination these individuals have experienced in the so considered cultivated society.<sup>738</sup> The media play a major role in influencing the popular image of the minorities, giving a disproportionate and inaccurate depiction of their realities that permitted the implementation of prejudices and confusion.<sup>739</sup> On the other side, the Islamic rhetoric inciting the radicalization is based on a binary language that oppose the heroic forces on one side and the *kuffar* (disbelievers) on the other implementing the dehumanization of the two sides.<sup>740</sup> In order to contrast efficiently the patriarchal system on which is based the ISIS political construction, it is important to underline the counter-narratives that could demonstrate how its system is different from the image it proposes. For instance, it could be proffered a vision of these war-zones as failing in infrastructures and characterized by an harsh environment, exploiting the hints some of the online profiles showed us starting around November 2014.<sup>741</sup> For instance, some of these women expressed concerns regarding the conditions of some services distributed by ISIS, especially in the health-care branch where the administering of some medications is underdeveloped and sloppy.<sup>742</sup> Moreover, the economic and moral sustain for the mujahideen's widows is less efficient in the respect from what the chiefs promised and

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<sup>737</sup> *Ibidem.*

<sup>738</sup> E.M. Saltman, M. Smith, op.cit., p. 10.

<sup>739</sup> *Ibidem.*

<sup>740</sup> *Ivi*, p. 12.

<sup>741</sup> *Ivi*, p. 48.

<sup>742</sup> *Ivi*, p. 49.

sometimes these grieving women are pressured to publicly celebrate in glorious terms the death of their husbands.<sup>743</sup> Usually the sphere of the counter-narratives includes a broad-range of activities with different aims and targets, incorporating public diplomacy, strategic communication and targeted campaigns to discredit violence through the offering of alternative viewpoints and information.<sup>744</sup> However, it is important to recognize the differences between government strategic communication, which aim is to divulge its active policies, alternative narratives, which are created to present a different way of living and raise the public awareness on particular arguments and counter-narratives directed at civil societies and which goal is to offer an alternative view to violent propaganda.<sup>745</sup>

Alternative narratives and counter-narratives are essential to stop the effects of the radicalization process and luring in the terrorist organizations. The sensitive targets of the terrorist propaganda could be permitted to face a series of images where the female figure openly contrast with both the submissive and ruthless idea the followers of ISIS are trying to propose. For instance, some Western journalists concentrate themselves on the phenomenon of the Kurdish female fighters. Lizzie Dearden, journalist of the English newspaper *The Independent*, stressed that these female group has an unexpected advantage in fighting the terrorists.<sup>746</sup> In the Northern part of Syria there is an opposing group that call itself YPG (*Yekîneyên Parastina Gel*) and was formed in 2011 with the role of armed service of the government of Syrian Kurdistan and one part of that militia is formed by the Women's Protection Unit or YPJ (*Yekîneyên Parastina Jin*).<sup>747</sup> Apparently their troops are the only ones in Syria and Iraq that

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<sup>743</sup> *Ibidem*.

<sup>744</sup> *Ivi*, p. 55.

<sup>745</sup> *Ivi*, p. 56.

<sup>746</sup> L. Dearden, 'Isis are afraid of girls': Kurdish female fighters believe they have an unexpected advantage fighting in Syria, on *The Independent* online, 9 December 2015, <http://www.independent.co.uk/news/world/middle-east/isis-are-afraid-of-girls-kurdish-female-fighters-believe-they-have-an-unexpected-advantage-fighting-a6766776.html>. Online Access: 23/12/2015.

<sup>747</sup> *Ibidem*.

are really defeating the ISIS front.<sup>748</sup> This female unit had a vital role in contrasting ISIS in the occasion of the retaking of Kobane and it seems the Islamic fighters believe that if they are killed by a girl they will not be allowed to go to heaven.<sup>749</sup> Moreover, these Kurdish female fighters assert to fight also to defend their honor, because they do not want to be massacred or raped by them as they saw they did to the Yazidis.<sup>750</sup> Another journalist of *The Independent* Emma Henderson, displayed in her article a photo where a female YPJ member in a symbolic gesture of defiance is trying to destroy an ISIS public sign that told women how they could dress properly.<sup>751</sup> Besides, this is only a supposition, since the provenience of the photo has not been verified yet, but surely it has a strong emotional impact directed against the traditionalistic views of the Islamic fundamentalists.<sup>752</sup> Even the CNN in one report confirmed the existence of those women,<sup>753</sup> and the article was accompanied by a series of video that were realized by the CNN crew and in one of them they interviewed personally those female soldiers. Even if they claim they would murder any mujahideen who attempt to conquer again their position they do not seem to be ravaging for a combat but they will defend their freedom also with the use of force.<sup>754</sup> The journalists praised them with the title of “though women” instead of girls, despite their young age.<sup>755</sup> Indeed it seems also that the average age of these female fighters is usually between 18 and 25 years old.<sup>756</sup> A first striking difference between these Kurdish girls and the *muhajirat* is that they could

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<sup>748</sup> P. Cockburn, *War with Isis: Meet the Kurdish women's militia fighting for their families west of the Syrian town of Ras al-Ayn*, on The Independent online, 25 May 2015, <http://www.independent.co.uk/news/world/middle-east/war-with-isis-meet-the-kurdish-womens-militia-fighting-for-their-families-west-of-the-syrian-town-of-10274956.html>. Online access: 23/12/2015.

<sup>749</sup> *Ibidem*.

<sup>750</sup> *Ibidem*.

<sup>751</sup> E. Hunderson, *Female Kurdish fighter destroys an Isis sign telling women how to dress*, on The Independent online, 5 December 2015, <http://www.independent.co.uk/news/world/middle-east/female-kurdish-fighter-destroys-an-isis-sign-a6761606.html>. Online access: 23/12/2015.

<sup>752</sup> *Ibidem*.

<sup>753</sup> B. Wedeman, K. Khadder, A. Gentile and A. Dobby, *This is a story about Syria at war, but It is not a war story*, on CNN online, 15 December 2015, <http://edition.cnn.com/2015/12/09/middleeast/syria-war-story-wedeman/>. Online access: 23/12/2015.

<sup>754</sup> *Ibidem*.

<sup>755</sup> *Ibidem*.

<sup>756</sup> Hunderson, op. cit.

resort to violence only if they will have to and to defend their right to be free. There are still too few information about these militant Kurdish girls and it would be dangerous to make them an absolute virtuous example, but surely they could embody the idea that there are women who do not want to be submitted. The next example of counter-narrative is a more pacific one and it has become a major inspiration for a great number of girls around the world.

### **3.6 Malala Yousafzai: How a Little Girl Could Stand Against Terrorism**

In order to understand the actual power women could have in combating openly terrorism, the story of Malala Yousafzai, a Pakistani Muslim girl who was shoot in her head by a Taliban on the 9 of October 2012, could be really enlightening. After that attack she become one of the most powerful symbol of the female struggle against the dominant patriarchal ideology of the Taliban. Thanks to her work in the empowerment of female education around the world, she was honored to receive, as co-recipient, the Nobel Peace Prize 2014, becoming the youngest Nobel Prize laureate in history. In her autobiography, *I Am Malala. The Girl Who Stood Up for Education and Was Shot by the Taliban*, she insists on the importance for girls to get a full education, since it could permit them to be more confident in their everyday life outside the strict familiar space.<sup>757</sup> She also faced the American President Barack Obama stressing out directly with him the major problem of the drones attacks used to eradicate terrorism, observing that instead of implementing the policy of the targeted killings, the U.S. should concentrate on spreading education.<sup>758</sup> Her shooting has been considered a symbolic message from the part of the Taliban, who wanted to silence her because she was threatening their campaign of desensitization. Through her simple vision of life of the Swat Valley in Pakistan, she could permit us to enter the mechanisms of the fundamentalists ideology

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<sup>757</sup> M. Yousafzai, *I Am Malala. The Girl Who Stood Up for Education and Was Shot by the Taliban*, with C. Lamb, Phoenix Paperback Edition, Orion Publishing Group, London, 2014, p. XIV.

<sup>758</sup> *Ivi*, p. XVII-XVIII.

and to understand the strategy that permitted them to invade the everyday life of the Pakistanis.

Malala gives us some hints on the tradition of the Pashtun ethnicity, marking that in their culture the birth of a boy is a moment of celebration, on the contrary a female born is a shame to the family, due to the fact that their only plan for the future is to prepare food and give birth to children.<sup>759</sup> In their society there is little space for girls education, they could be nothing more than teachers or doctors,<sup>760</sup> in order to cure and teach to other girls because the men are forbidden to do that to preserve the traditional division between the two sexes.<sup>761</sup> Traditionally women could not go outside without a male relative who accompanies them.<sup>762</sup> They should also cover their faces when they left their *purdah* quarters and they aren't allowed to speak to a male stranger, because she could be accused to flirt with a man and that could bring shame on the family.<sup>763</sup> In opposition to that depiction, the recent Muslim history presents some situations where women played a decisive and active role in resolving the disputes. For instance, Malala narrates of the existence of Malalai of Maiwand, the very woman who inspired her father, that during the Second Anglo-Afghan War in 1880 marched into the battlefield brandishing the Afghan flag to encourage the soldiers to fight for their freedom.<sup>764</sup>

Malala tells that Islam in the Swat Valley came in the eleventh century when the Afghan Sultan Mahmud of Ghazni invaded the current Pakistani territory, so before that forced entrance her native land was a Buddhist kingdom and it has been so for 500 years.<sup>765</sup> The first step of the Islamization of the country began in the 1970s, when General Muhammad Zia Ul-Haq orchestrated a military coup against the prime minister Zulfikar Ali Bhutto.<sup>766</sup>

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<sup>759</sup> *Ivi*, p. 9.

<sup>760</sup> *Ivi*, p. 4.

<sup>761</sup> *Ibidem*.

<sup>762</sup> *Ibidem*.

<sup>763</sup> *Ivi*, p. 54.

<sup>764</sup> *Ivi*, p. 10.

<sup>765</sup> *Ivi*, p. 13.

<sup>766</sup> *Ivi*, p. 23.

Zia wanted to make Pakistan a proper Islamic country, so the population should have to follow the instructions of his chiefs who were pursuing the Islamic principles.<sup>767</sup> Under his government women's freedom was restricted significantly and under the laws their presence in the courts was made to count half of that of a man's.<sup>768</sup> For instance, a woman or even a girl could go to prison for adultery if in a case of rape she could not provide a male witness in her defense.<sup>769</sup> After the Soviet invasion, Zia was transformed by the United States from an international pariah to a defender of freedom since he was opposing the Communist imperialism.<sup>770</sup> Zia put in place the sixth pillar of the Muslim religion the duty to fulfill the jihad, heartedly encouraged by the CIA.<sup>771</sup> When the Taliban came to power in the Swat Valley they could not bear the reminiscences of another religion, so they disrupted the statues of the Buddhas because they demonstrated the pacific coexistence of two different faiths.<sup>772</sup> Malala reminds also of some stories that his father told her about the time the Taliban took-over in Afghanistan. They forced women to wear burqas and men to grow beards, women were banned from the public life because they laughed too loudly or wore something white, that was usually a manly color.<sup>773</sup>

Pakistan started to experience its "Arabisation" after the attacks of 9/11,<sup>774</sup> however at first sight the insertion of the Taliban in the daily life of Malala's surroundings has been non-invasive. On the contrary it was perceived as a positive influence, since they were the first together with the Islamic NGOs and charities to come to help the displaced people after the earthquake of the 8 of October 2005.<sup>775</sup> Moreover, at the beginning the fundamentalists who arrived in

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<sup>767</sup> *Ivi*, p. 24.

<sup>768</sup> *Ibidem*.

<sup>769</sup> *Ibidem*.

<sup>770</sup> *Ivi*, p. 25.

<sup>771</sup> *Ivi*, p. 26.

<sup>772</sup> *Ivi*, p. 102.

<sup>773</sup> *Ivi*, p. 55.

<sup>774</sup> *Ivi*, p. 80.

<sup>775</sup> *Ivi*, p. 87.

Swat did not call themselves,<sup>776</sup> they “disguised” themselves as Islamic reformers and interpreters of the Quran, in particular Malala concentrated her description on their leader, Maulana Fazlullah, who started a radio station in Swat to teach to the others how to adopt proper Islamic habits and practices.<sup>777</sup> He sounded reasonable when he demanded to stop to commit sinful acts, especially if they involved Westernized practices.<sup>778</sup>

He was admired for his charisma and also for the settlement of a faster and more traditionalistic judicial system, since the inhabitants of the Swat Valley were disappointed by the corruption of the Pakistani government and the slowness of the justice system.<sup>779</sup> The Pakistani courts could take years to resolve a dispute, instead Fazlullah and his men could end a conflict in a minute. However, their methods remembered about feudal times, mostly when people were publicly flogged.<sup>780</sup> This last paragraph demonstrates another time how the fundamentalism meander itself in those spaces the public governance fail to administrate, similarly to the criminal organizations.

At first, the Taliban tried to gather the support of the majority, targeting the main problems and punishing the responsible.<sup>781</sup> Then, they started to push aside the female part of the population, stating that they should fulfill their duties at home and only in emergencies could go outside.<sup>782</sup> Since Malala is a devoted Muslim, and she was raised in a practicing family, she seemed confused by the words of Fazlullah, because in the Quran there is no prohibition for women to stay outside or be educated.<sup>783</sup> In the sacred text there is even written that the first wife of the Prophet was a businesswoman, called Hazrat Khadijah, who was elder than him and who has been married before.<sup>784</sup>

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<sup>776</sup> *Ivi*, p. 91.

<sup>777</sup> *Ivi*, p. 92.

<sup>778</sup> *Ibidem*.

<sup>779</sup> *Ivi*, p. 93.

<sup>780</sup> *Ivi*, p. 98.

<sup>781</sup> *Ivi*, p. 94.

<sup>782</sup> *Ivi*, p. 95

<sup>783</sup> *Ibidem*.

<sup>784</sup> *Ibidem*.

Malala was raised by an atypical Pashtun father, who valued the birth of a first born female child in the same way he would have done for a boy.<sup>785</sup> Ziauddin Yousafzai was the son of a respected *imam* and when he was young he was captivated by the glorious propaganda of the Afghan mujahideens and he thought to join the *jihad* against the Soviets.<sup>786</sup> In that particular period of his life his Muslim identity seemed more important than anything else, he said it was like a sort of brainwashing.<sup>787</sup> Then he started to talk politics with other men of the community and he understood the conflict that was occurring was a secular fight between the Soviet Union and the United States where the defense of the Muslim identity had no place.<sup>788</sup> He had always been a charismatic figure but he was also a sensitive man who took into consideration the opinion of his wife, even if she was illiterate.<sup>789</sup> He was an educator, so he encouraged his daughter to study and to question the world, permitting her to feel free to speak in public about her ideas even when he was reprimanded about it. She thought that to speak for her rights and for the rights of the other girls was her duty.<sup>790</sup> She believed that "if one man, Fazlullah, can destroy everything, why cannot one girl change it?".<sup>791</sup>

On the opposite side there were the Taliban who started to speak against public female school administrators and congratulating when a girl was forced to leave the school.<sup>792</sup> They started to become more and more radical and violent, blowing up other schools of Swat and sentencing that from the 15 of January 2008 all girls should stop to go to school.<sup>793</sup> Lamentably, some women joined the public stigmatization of the female schoolchild and promoted the segregation of women in the private space. There was a *Burqa Brigade* that were

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<sup>785</sup> *Ivi*, p. 45.

<sup>786</sup> *Ivi*, p. 27.

<sup>787</sup> *Ibidem*.

<sup>788</sup> *Ibidem*.

<sup>789</sup> *Ivi*, p. 43.

<sup>790</sup> *Ivi*, p. 117.

<sup>791</sup> *Ibidem*.

<sup>792</sup> *Ivi*, p. 97.

<sup>793</sup> *Ivi*, p. 121.

taught to attack people, bazaars and shops when they were not fund compliant with the traditionalist thought.<sup>794</sup> So, as in the previous examples of the brides of the Islamic State, women can be vocal and visible if it suits the political and social interest of the men.<sup>795</sup> Malala observed that these fundamentalists considered women as puppet dolls to whom they could say how to behave and how to dress, claiming to do it in the name of Allah.<sup>796</sup> The Taliban raised the bets when they started to show openly the bodies of dead dissidents in the public square, to remind to the others where they will stand if they would oppose their government. They have also murdered female dancers and performers because they were considered immoral.<sup>797</sup> Politically speaking the Taliban front was against Benazir Bhutto, the first female prime minister elected in the history of Pakistan, who they considered a profane so some of them affirmed that she was rightly murdered, because she was not following Islam.<sup>798</sup> Truthfully, she was considered by her supporters as a guide, she demonstrated that the dictatorship was over and the democratic time could begin. She was also compliant with the American goals when she offered to help to hunt Bin Laden inside the Pakistani borders.<sup>799</sup> She was a model for the Pakistani girls, and Malala herself was inspired by her and decided accordingly to become a politician in the future.<sup>800</sup> Benazir represented a threat to the Taliban claims and her alliance with the United States made her an easy target for radicalized religious people and nationalists.

Malala cooperated with her father in the campaign for the education of young girls, so at the age of ten she was asked to start a blog on BBC Urdu to demonstrate her point of view and how really was the life under the Taliban command. She also participated with her father in some talk-shows always for

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<sup>794</sup> *Ivi*, p. 104.

<sup>795</sup> *Ivi*, p. 105.

<sup>796</sup> *Ivi*, p. 103.

<sup>797</sup> *Ivi*, p. 123.

<sup>798</sup> *Ivi*, p. 111.

<sup>799</sup> *Ivi*, p. 107.

<sup>800</sup> *Ibidem*.

BBC Urdu.<sup>801</sup> She demonstrated that the people of the Swat Valley obeyed to the Taliban out of fear, considering that there was no one to protect them from the brutality of these fundamentalists. Moreover, when the Taliban became the highest authority in a particular place, running *madrasas*, controlling the economy, the politics and the laws, then the Talibanisation became the norm.<sup>802</sup>

Malala was targeted by the Taliban because she was educated in other languages and she learned about other realities, so they thought she has been Westernized and with her example she could convert other girls to her vision.<sup>803</sup> When she started to win prizes she became more and more popular and notorious so she received direct death threats.<sup>804</sup> Malala with her example clarified that Pakistani women wanted independence not to disobey their fathers, brothers or husbands but because they wanted to take decision for themselves, go to school and find the work they want.<sup>805</sup>

When she was shoot the Taliban vindicated the act because they said she was preaching for secularism,<sup>806</sup> but instead of defeating her they empowered her struggle making her a universal icon. She received sympathy from the most important world leaders and the United Nations designated the 10 of November to be the Malala Day.<sup>807</sup> Unfortunately, she received letters and blaming also from some of her detractors, mostly Pakistanis, who accused her to be a puppet into the hands of the Western politicians.<sup>808</sup> She even received a letter from Adman Rashid, a Taliban commander who sustained that she wasn't attacked because of her campaign for girls education but because she tried to frustrate the efforts of the establishing of the Islamic system.<sup>809</sup> He added that he was shocked she was shoot and that he wanted to warn her in advance,

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<sup>801</sup> *Ivi*, p. 118.

<sup>802</sup> *Ivi*, p. 126.

<sup>803</sup> *Ivi*, p. 136.

<sup>804</sup> *Ivi*, p. 180.

<sup>805</sup> *Ivi*, p. 183.

<sup>806</sup> *Ivi*, p. 216.

<sup>807</sup> *Ivi*, p. 248.

<sup>808</sup> *Ivi*, p. 262.

<sup>809</sup> *Ivi*, p. 263.

besides the Taliban would forgive her if she would go back to Pakistan and wear a *burqa* to go to an Islamic religious school.<sup>810</sup> She continues to stress that Islam gave the right to all, so also to girls, to be educated and to go to school and that Pakistani authorities should change their educational policies since there are still 5.1 million Pakistani children who do not have an education.<sup>811</sup>

Nowadays Malala is continuing her struggle, travelling around the world to help people and instituting a non-profit organization, the *Malala Fund*, which collects money to help the poor populations. Recently she has condemned the right-wing views of the American Republican front-man Donald Trump, who claimed to be his desire to ban all Muslims from the United States.<sup>812</sup> Malala replied that this hatred campaign will radicalize more terrorists and that his speech is just discriminatory.<sup>813</sup> She also added that the politicians and the media should choose carefully the words they use in order to soften the xenophobia.<sup>814</sup> Malala's story is a perfect example of a counter-narrative that could be used to contrast the ideology of those Muslim girls who want to embrace the Islamic radicalized vision of ISIS, since she is a devoted Muslim with a deep respect for tradition, but she understand that violence is not the right answer. Also the presence of his father is substantial, because he demonstrates to the public opinion the rupture of the patriarchal system since being a male practicing Muslim cannot impede him to respect the freedom of his daughter. Malala proves that a good parental support, education and self-conscience could permit to a young girl to stand properly for her rights.

In the next part of the chapter the negativity of the actions of the patriarchal society will be analyzed in its application in the domain of the preventive detentions perpetrated by the Americans.

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<sup>810</sup> *Ibidem.*

<sup>811</sup> *Ibidem.*

<sup>812</sup> H. Saul, *Malala condemns Donald Trump's 'tragic' call to ban Muslims in US: 'It will radicalise more terrorists'*, on The Independent online, 17 December 2015, <http://www.independent.co.uk/news/people/malala-warns-donald-trump-his-call-to-ban-muslims-in-us-will-radicalise-more-terrorists-a6774996.html>. Online access: 23/12/2015.

<sup>813</sup> *Ibidem.*

<sup>814</sup> *Ibidem.*

### 3.7 Guantánamo Bay or the Annihilation of the Human Being

The patriarchal arrogance towards the supposed inferior part of the society has revealed itself to be very powerful in the latest ten years. The Guantánamo Bay scandal revealed by the media, demonstrated how far a government could go to supposedly protect its interests and its population. The massive breach of the human rights conventions demonstrated how the democratic construction is still too feeble and need to be revised, since that occurrence was not an isolated case but only the biggest one. The response of the United States to the terrorist attacks of 2001 was not driven by the desire to bring justice, but by a sentiment of revenge which led the most powerful country of the world to act irresponsibly, provoking the major counter effects we can observe today. However, the violations of International Law did not started with the tortures inside the detention camps but with the infringement of the prosecution criminal procedures. The United States took the deliberate decision to burst the international system resorting to the *extraordinary renditions* program and the other national states bend in front of the requests of the Americans, conniving themselves to the irregularities.

The term rendition has been used by governmental agencies to refer to the transfer of an individual, from a country to another, without the recourse to standard legal extradition, immigration removal or exclusion procedures.<sup>815</sup> Before September 2001, the American government had the possibility to issue executive orders authorizing the CIA, under the respect of restrictive rules, to carry out rendition actions outside the territory of the United States for the purpose to bring to justice criminals and make them face their charges in front of an American court.<sup>816</sup> Literally, these operations were called “regular renditions” or “renditions to justice”, the kidnapped were transferred into the territory of the United States to have a full and fair process in front of the

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<sup>815</sup> B. Olshansky, *Democracy Detained. Secret Unconstitutional Practices in the U.S. War on Terror*, A Seven Stories Press First Edition, Seven Stories Press, New York, 2007, p. 187-188.

<sup>816</sup> *Ivi*, p. 189.

federal courts, and the diplomacy had an important role in intertwining bilateral relations with the foreign governments to assure their cooperation in the delivery of the accused.<sup>817</sup> After the 9/11 the procedure was completely revolutionized thanks to the Bush Doctrine and these operations were renamed as extraordinary renditions. The objectives of their executing were deeply modified to answer to the need detent preventively and indefinitely a suspected terrorist in a foreign country without the possibility to giving him a trial and to interrogate him to gather intelligence with the use of torturing or abusive measures.<sup>818</sup>

During the Bush mandate, military special forces could be sent in a foreign territory, in the violation of the territorial sovereignty, to capture a suspected and to take him in a secret base to be cross-examined in violations of his rights protected under the Geneva Conventions.<sup>819</sup> This was supposed to be part of a CIA secret intelligence-gather program named *Greystone* (GST),<sup>820</sup> including even the possibility for the CIA to perpetrate assassinations of designated people.<sup>821</sup> These authorizations were justified under the necessity of the self-defense priority, approved by the American Congress in the Authorization for the Use of Military Force in Afghanistan on 14<sup>th</sup> September 2001.<sup>822</sup> This resolution permitted to the President to use "all necessary and appropriate force against those nations, organizations or persons he determines planned, authorized, committed or aided the terrorist attacks that occurred on September 11, 2001 [...] in order to prevent any future acts of international terrorism

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<sup>817</sup> *Ibidem*.

<sup>818</sup> *Ivi*, p. 189-190.

<sup>819</sup> *Ivi*, p. 190.

<sup>820</sup> D. Priest, *Covert CIA Program Withstands New Furor*, The Washington Post Online, 30 December 2005, <http://www.washingtonpost.com/wp-dyn/content/article/2005/12/29/AR2005122901585.html>. Online Access: 18/01/2016. The GST included programs allowing the CIA to capture al Qaeda suspects with help from foreign intelligence services, to maintain secret prisons abroad, to use interrogation techniques that some lawyers say violate international treaties, and to maintain a fleet of aircraft to move detainees around the globe. Other compartments within GST gave the CIA enhanced ability to mine international financial records and eavesdrop on suspects anywhere in the world.

<sup>821</sup> *Ivi*, pg 192.

<sup>822</sup> *Ivi*, p. 192.

against the United States.”<sup>823</sup> Nonetheless, under the international human right treaties and customary International Law the States are bound under the principle of *nonrefoulement*, established in the 1951 Convention on the Status of Refugees, the Convention Against Torture (CAT), the International Covenant on Civil and Political Rights, the Geneva Conventions and other compelling documents, to not transfer any person to another country where the life of the convicted, or his well-being, could be endangered through the use of practices that violate the human rights and the prohibition to torture.<sup>824</sup> The United States have countersigned all these documents so, under the supremacy clause of the American Constitution, the ratification have equalized them to bindings federal laws,<sup>825</sup> so their violation should be considered a constitutional crime.

According to Barbara Olshansky, professor in Human Rights at Stanford University, previous director of the Center for Constitutional Rights (CRR) and of the Guntánamo Global Justice Initiative, the United States decided willingly to do not take into consideration the prohibitions against torture, abuse and *refoulement*.<sup>826</sup> The Bush administration made its position very clear, when it declared the Convention Against Torture as non-self-executing for the United States. In addition, the term torture was redefined, so an act could be labelled a torturing one only if it was “specifically intended to inflict severe physical or mental pain or suffering”.<sup>827</sup> The Deputy Assistant Attorney General John Yoo and the Assistant Attorney General Jay S. Bybee head of the Office of Legal Counsel of the United States Department of Justice, in 2002 tried to interpret the War Crimes Act and the CAT in a way that could serve their purposes,<sup>828</sup> and in the end they assembled the so called *Bybee Memo* where they illustrated that torture occurs when its physical effects becomes “equivalent in intensity to the

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<sup>823</sup> J. Bravin, *The Terror Courts. Rough Justice at Guantánamo Bay*, Yale University Press, New Haven and London, 2013, p. 22.

<sup>824</sup> B. Olshansky, op. cit, p. 212.

<sup>825</sup> *Ivi*, p. 119.

<sup>826</sup> *Ivi*, p. 212.

<sup>827</sup> *Ibidem*.

<sup>828</sup> *Ivi*, p. 125.

pain accompanying serious physical injury, such as organ failure, death or major impairment of bodily function”.<sup>829</sup> Concerning the psychological domain “it must result in significant psychological harm or significant duration, e.g. lasting for months or years.”<sup>830</sup> Moreover, since “the CAT’s prohibitions did not applied to U.S. personnel’s treatment of noncitizens when it occurs outside of the U.S. territory”;<sup>831</sup> the United States were supposedly bound to intervene against an inhuman treatment only under the Fifth, Eight and Fourteen Amendments of their Constitution.<sup>832</sup>

Finally, for the U.S. government the “diplomatic assurance”, that is the guarantee from the part of a foreign government that the prosecuted will not be tortured while imprisoned, was enough to permit them to extradite an alleged terrorist in countries that were internationally well-known for their breaches of the human rights law.<sup>833</sup> However, Article 2 of the CAT declares that there are no exceptional circumstances that could justify the use of torture, not even a state of war, the threat of a war or a political instability or a public emergency.<sup>834</sup> In addition, Article 4 defines the ban as an obligation with no derogation, even in case of national emergency or threaten to the life of the nation, since the UN Human Rights Committee reasserted that the prohibition is a peremptory norm of International Law, non-derogable and which binds all states.<sup>835</sup> So, considering these last observations, the above mentioned declarations aggravated the U.S position, and the European Council strongly condemned their actions stating that the conformity with the IHL and the human rights law is one of the strongest weapons against the raise of terrorism, because it ensures the widest international support for avoiding actions that could provoke sympathy for the cause of the terrorists.<sup>836</sup>

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<sup>829</sup> *Ivi*, p. 214.

<sup>830</sup> *Ivi*, p. 125.

<sup>831</sup> *Ivi*, p. 213.

<sup>832</sup> *Ibidem*.

<sup>833</sup> *Ibidem*.

<sup>834</sup> *Ivi*, p. 116.

<sup>835</sup> *Ibidem*.

<sup>836</sup> *Ivi*, p. 85.

The government of the United States has been an active part in the construction of this torturing system, because the policies were decided by the Defence Department in accordance with the Military and some Legal Counsellors of the White House. Jess Braven, Supreme Court correspondent for the *Wall Street Journal*, in his book *The Terror Courts* analyzed the legal gaps in the construction of the Guantánamo case. In order to make legal those actions the actors already envisioned to perpetrate in the foreseeable future, they enlarged the definition of war beyond the conventional battlefield, because considering these attacks an act of war rather than a crime, they could treat the suspects as military targets and seize them outside the normal extradition procedures.<sup>837</sup> Indeed, a military commission could prosecute and execute the defendants more quickly and without following the elaborate rules of criminal procedure.<sup>838</sup> Moreover, the war nomenclature was also the foundation for the invocation of the presidential prominence in the executive branch that could not put a limitation to his powers the organization of the offensive strikes against Afghanistan.<sup>839</sup> Following that on 13<sup>th</sup> November 2001 President Bush authorized a military order for the establishment of military commissions which would have tried the 9/11 perpetrators.<sup>840</sup> Only on a second time they were thought to conclude every terrorist they could catch. Moreover, the Bush administration concluded that a 1942-style trial would be the best option to prosecute the terrorists,<sup>841</sup> but since the American judicial system is based on the Common Law, they needed to find a legal precedent to legitimate their decision. Then, the OLC deputy Patrick Philbin found in the archives two legal cases that were *Ex parte Quirin* and *Korematsu vs. United States*, two of the several Supreme Court ruling during the World War II.<sup>842</sup> The second case approved the internment of the Japanese Americans on a blatant ethnic

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<sup>837</sup> J. Bravin, op. cit., p. 22.

<sup>838</sup> *Ibidem*.

<sup>839</sup> B. Olshansky, op. cit., p. 118.

<sup>840</sup> J. Bravin, op. cit., p. 20.

<sup>841</sup> *Ivi*, p. 22.

<sup>842</sup> *Ivi*, p. 33.

prejudice, whilst the first one represented a political manipulation of the judicial process.<sup>843</sup> In the *Quirin* case Nazi saboteurs was captured in Florida by FBI agents thanks to a snitch in the body of the saboteurs.<sup>844</sup> At the beginning the Americans wanted to trial the suspects in front of the federal courts but, after the menace of the snitch to tell the truth about the capture, President Roosevelt ordered a close-door military commission which condemned the captives to the electric chair.<sup>845</sup> The Court made the distinction between lawful and unlawful combatants who were subjected to capture and detention, and stated that also the unlawful combatants could face trial and punishment in front of military tribunals.<sup>846</sup> The Muslim terrorist were baptized as enemy combatants so, technically, they could not be equalized to the category of unlawful combatants, but the Americans needed to take advantage of the similarities. The situation of the Muslim terrorists was aggravated by the fact that the military commission could not follow the American principles of the law and the rules of evidence. In addition to this, no reference was made to the basic elements of a due process, that is the proof beyond any reasonable doubt, the presumption of innocence and the right to remain silent; the only standard that could be adopted was that the evidence had to hold a probative value to a reasonable person.<sup>847</sup> However, to be truth, in the very beginning of the extraordinary renditions procedure, the access to a court was not the first concern of the military personnel. The real goal of the American government was to gather intelligence while taking revenge for the 9/11 attacks. However, in order to use all the means possible to reach their aim, they could not act strictly under the rules of law active on the American soil, so they needed to find a place that could fit this necessity.

The Guantánamo Bay American military establishment was envisioned as the perfect place to host the terrorists. This possession came into the hands of

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<sup>843</sup> *Ibidem.*

<sup>844</sup> *Ibidem.*

<sup>845</sup> *Ibidem.*

<sup>846</sup> *Ivi*, p. 34.

<sup>847</sup> *Ivi*, p. 39.

the Americans after the end of the 1898 Spanish-American War, when on December 1898 a treaty ceded Guam, the Philippines and Puerto Rico to the United States.<sup>848</sup> Cuba was supposed to become independent, but the U.S. took the effective control of the island rendering it a sort of tributary state.<sup>849</sup> The U.S. obtained the authority to build a naval station on the place the Marines first landed, Guantánamo Bay.<sup>850</sup> In 1934 President Roosevelt agreed to end most of the formal powers over Cuba, but the government insisted on keeping the military base.<sup>851</sup> The American authorities signed an indefinite lease with their Cuban counterparts that granted to the United States the “complete jurisdiction and control” over the Guantánamo Camp, while Cuba retained the ultimate sovereignty.<sup>852</sup> Guantánamo’s land is larger than Manhattan with thousands of military and civilians residents with its own governing system,<sup>853</sup> and even the Navy forces declared that the base is, for all practical purposes, an American territory and “under the lease agreements, the United States has for approximately ninety years exercised the essential elements of sovereignty over this territory, without actually owning it”.<sup>854</sup> Furthermore, this camp has been already used in 1994 to host a large number of migrants,<sup>855</sup> so it was already proved to be an effective possible place for detention. Besides, this legal confusion was purposely exploited by the American Defense Department to permit the violations of the *habeas corpus*, since for it the detainees were held in a law-free zone and possessed only the rights the government deigned to extend to them.<sup>856</sup> In the mind of the Legal Counsellor John Yoo, Guantánamo could become a laboratory for imprisoning, interrogating and punishing enemy

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<sup>848</sup> *Ivi*, p. 72.

<sup>849</sup> *Ibidem*.

<sup>850</sup> *Ibidem*.

<sup>851</sup> *Ibidem*.

<sup>852</sup> B. Olshansky, op. cit., p. 132.

<sup>853</sup> *Ibidem*.

<sup>854</sup> *Ivi*, p. 133.

<sup>855</sup> J. Bravin, op. cit., p. 74.

<sup>856</sup> B. Olshansky, op. cit., p. 133.

prisoners beyond the law's reach.<sup>857</sup> The military personnel of Guantánamo did not even kept an exact count of the detainees that passed in the prison, neither there was a recording, only in May 2006 a vague list with names and countries of origin was released.<sup>858</sup>

According to the further testimonies of the convicted who were released after a period of detention in this military camp, the detainees suffered from beatings, religious insulting, intimidations, stripping naked, hooding, blindfolding, exposition to extreme temperatures, denying of basic necessities, chaining or short-shackling, painful stress positions, sleep, food and water deprivation, forcible body cavity searches, threatening of renditions and harming to their families, sexual harassments and humiliations, isolation, sensory deprivation, forced feedings and deprivation of correct medical treatments.<sup>859</sup> These abuses lead the detainees to resort to radical protesting solutions, for instance they convene different hunger strikes in 2002 and in 2005 in order to demand the application of some individual right.<sup>860</sup> Unfortunately, some of them could not resist to these difficult conditions, so they committed suicide to avoid an indefinite pain,<sup>861</sup> but the Rear Admiral Harry Harris, commander of the camps, called this deaths as an "act of asymmetric warfare".<sup>862</sup>

All the above mentioned treatments used during the interrogations of the terrorists constitutes torture under International Law.<sup>863</sup> Additionally, as the Marine's prosecutor Stuart Coach enlightened in a note sent to the second Chief Prosecutor of the Military Commission at Guantánamo Robert L. Swann, the techniques used to extort information from the detainees violated the 1984 United Nations Conventions Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and under Article 15 these proofs were to

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<sup>857</sup> J. Bravin, op. cit., p. 75.

<sup>858</sup> B. Olshansky, op. cit, pp. 88.

<sup>859</sup> *Ivi*, p. 101.

<sup>860</sup> *Ivi*, p. 106.

<sup>861</sup> *Ivi*, p. 107.

<sup>862</sup> *Ivi*, p. 115.

<sup>863</sup> *Ivi*, p. 100.

be excluded as evidences plus the torturing constituted also a criminal violation under the War Crimes Act 18 U.S.C. 2441.<sup>864</sup> The particular occurrence is that these methods were also administered in a national secret program called *Survival, Evasion, Resistance and Escape* (SERE) addressed to American aviators, commandos and others soldiers who were at risk of being captured by the enemy forces.<sup>865</sup> They were called to resist to treatments, aimed at gathering intelligence information or manufacturing propaganda, based on the interrogation systems used by the Soviets during the Cold War.<sup>866</sup> Coach himself passed through this training and testified its harshness. After a few years a Senate investigation demonstrated that from December 2002 the instructors of the Brunswick SERE school went to Guantánamo to train the inquisitors in breaking the prisoners in the same way they taught the American service members to resist torture.<sup>867</sup> The core difference resides in the fact that after a short period of time the soldiers, who were already trained in a basic way to endure great efforts, would end this distress and return home, on the contrary the detainees did not had the possibility to back away. In addition to that aggravating accuses of breaching of the human rights, the U.S. also have to face the problem of the illegitimate detentions waged against some innocent civilians, and some of them were children.<sup>868</sup> A part of the problem was related to the so called "bounty victims" that were taken to Guantánamo following the program *U.S. Rewards for Justice* which has paid more than \$60 million financial rewards to foreign authorities which delivered to the Americans the supposed terrorists.<sup>869</sup> Indeed, the Afghani intelligence officers started to offer monetary compensations, after having attended a meeting with the U.S. Special Forces, to all people who turned in any al-Qaeda fighter.<sup>870</sup> Most of them weren't really

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<sup>864</sup> J. Bravin, op. cit., p. 154.

<sup>865</sup> *Ivi*, p. 85.

<sup>866</sup> *Ibidem*.

<sup>867</sup> *Ivi*, p. 87.

<sup>868</sup> B. Olshansky, op. cit, p. 90.

<sup>869</sup> *Ivi*, p. 98.

<sup>870</sup> *Ivi*, p. 97.

terrorist fighters, but the local authorities did not control the accused they received and the U.S., in their urge to convict the terrorists and demonstrate to the world they could not be fooled, accepted the prisoners and then tried to charge them with any crime. When the prosecutors demanded what were the crimes they were responded to figure it out.<sup>871</sup> With the arrest of individuals from all over the world and who have never been near the battlefields in Afghanistan, the Bush administration demonstrated the implementation of a new policy, where the executive branch claimed the unfettered right to seize and detain indefinitely without charge or trial any individual it deems to be a risk to the United States.<sup>872</sup> So, to sum up the detainees of Guantánamo were denied all Constitutional and international protection, in the first case because they were considered aliens and non-American citizens, in the second because they were labelled as “enemy combatants” a category that is not present in any international treaty.<sup>873</sup> The case of innocents being held in those camps is ascertained as the cases of Maher Arar<sup>874</sup> and Khaled al-Masri<sup>875</sup> demonstrated. The decisions made by the administration officials denoted how their determination to treat the defendant as sub-humans reflected on their decision to break every rule concerning the human rights and the dignity of the human being.<sup>876</sup> Likewise, the American military personnel could have been accused of torturing violations only if it was clarified if they acted with the specific intent and objective to inflict severe pain,<sup>877</sup> consequently if the perpetrators lacked this requisite intent they could not be prosecuted, even if they were not acting in good faith.<sup>878</sup>

The *Rasul v. Bush* case changed the rules. It was presented a specific pleading on the behalf of two British citizens Shafiq Rasul and Asif Iqbal who

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<sup>871</sup> J. Bravin, op. cit., p. 116.

<sup>872</sup> B. Olshansky, op. cit. 98.

<sup>873</sup> *Ivi*, p. 86.

<sup>874</sup> *Ivi*, p. 199.

<sup>875</sup> *Ivi*, p. 208.

<sup>876</sup> *Ivi*, p. 125.

<sup>877</sup> *Ibidem*.

<sup>878</sup> *Ivi*, p. 126.

were detained for two years in Guantánamo without consistent charges and when they were released, they demanded justice for the denying of the *habeas corpus*.<sup>879</sup> The case was submitted to the careful inspection of the Supreme Court which sentenced that the habeas jurisdiction extends not only on the sovereign territory of the United States but also on places where the government exercise plenary and exclusive jurisdiction,<sup>880</sup> as in the case of the Guantánamo base, which particular legal situation has been already described.

Furthermore, the Court further declared that the habeas statute does not distinguish in its geographical coverage between U.S. citizens and foreign nationals, so the district courts have jurisdiction to hear the petitioner's claims under the presence of the Alien Tort Statute.<sup>881</sup> The Court concluded that "[a]liens held at the [Guantánamo base], no less than American citizens, are entitled to invoke the federal courts authority, under the habeas statute to test the lawfulness of their detentions".<sup>882</sup> From this point the situation started to bettering slightly for the imprisoned, some of them who hold the slightest cases were allowed to find a lawyer and contest their detention. However, the Defense Department was not well-disposed to admit a judicial and political error so, even if they were forced to institute in 2004 Combatant Status Review Tribunals (CSRTs) and Administration Review Board Tribunals (ARBs),<sup>883</sup> they just outlined false processes they wanted to control from the inside of the military building.<sup>884</sup> The government tried to defend the recourse to torture both as a law enforcement activity, where military police officers were authorized to use force to extract intelligence from the prisoners to prevent serious and imminent terrorist incidents,<sup>885</sup> and a "Nuremberg defense", that is the soldiers were forced to act in a particular way because they were following

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<sup>879</sup> *Ivi*, p. 130-131.

<sup>880</sup> *Ivi*, p. 132.

<sup>881</sup> *Ivi*, p. 133.

<sup>882</sup> *Ivi*, p. 134.

<sup>883</sup> *Ivi*, p. 139.

<sup>884</sup> *Ibidem*.

<sup>885</sup> J. Bravin, *op. cit.*, p. 166.

the orders of their superiors and only the orders who were obviously and patently unlawful could be disobeyed.<sup>886</sup> On the other side, the defendant were forced to be represented by military counselors, otherwise they could not be controlled.<sup>887</sup> When one of the accused demanded to the military judge if he could represent itself or if he could summoned his Yemeni lawyer, the Court denied it because they alleged that the prosecution derived from the American culture so, formally, a foreigner could not be suitable for the task.<sup>888</sup> Finally some of the detainees of Guantánamo were released but others are still there waiting for a trial that could charge them or free them.

One of the most important and explanatory cases of the American unlawful behavior is represented by the imprisonment of Mohamedou Ould Slahi, a Mauritanian detainee that was defined as the most important prisoner of Guantánamo,<sup>889</sup> since he was believed to be one of the minds of the Millenium Plot. Slahi was a brilliant young man who in 1988 went to study in Germany thanks to a scholarship. He was a cultivated man who spook Arabic, French and German, and he started understanding English after his arrival at the base.<sup>890</sup> He admitted he joined from 1990 to 1992 the Farouk Camp in Afghanistan with the alias Abu Masab, pledging allegiance to Bin Laden fighting the Communist regime.<sup>891</sup> After that period in several occasions he declared to have distanced himself from al-Qaeda and in fact there was no solid evidence against him.<sup>892</sup> After he was permitted to see a lawyer and the American court accepted to review his case in front of a military commission, he was able to deliver in 2012 a manuscript he wrote during his imprisonment in Camp Echo in 2005 and that was published on May 2015 with the title of *Guantánamo Diary*. This book has passed firstly in the hands of the American

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<sup>886</sup> *Ibidem*.

<sup>887</sup> *Ivi*, p. 195.

<sup>888</sup> *Ivi*, p. 199.

<sup>889</sup> *Ivi*, p. 68.

<sup>890</sup> *Ivi*, p. 94.

<sup>891</sup> *Ivi*, p. 95.

<sup>892</sup> *Ibidem*.

government that provided for the cancellation of the most compromising parts and then returned to the lawyer for the publication. His book has become a real best seller and, to the present time, Slahi is still held in Guantánamo.

In his personal experience Slahi shows to the public what the Mauritanian, the Jordanian and the American governments did to him. The most important abuses that have been committed against Slahi by the mentioned governments count of forced disappearance, arbitrary detention, inhuman and degrading treatments and torture.<sup>893</sup> In his story he tells about the psychological harassment he was targeted with when, for instance, they told him he wasn't human and for this reason he did not deserve to be respected or that he would be raped if he was send in an American prison.<sup>894</sup> In a paragraph he described the humiliation and embarrassment the detainees felt when they received the arbitrary body cavity inspections, sentencing that they were not the ones who should feel ashamed of something.<sup>895</sup> One of the most important part of his diary is when he reveal how his faith in the American judicial system was crushed by the astonishing reality he had to taste after he was transferred from a Jordanian prison, where the use of torturing methods was well-known worldwide, to Guantánamo.<sup>896</sup>

He, as well as others prisoners who had knowledge of the European justice system and of the values of a democratic country, were convinced that under the custody of the American government they would be treated with fairness,<sup>897</sup> but after a while he lost confidence in his capturers and he was forced to convert to the pessimistic vision of his fellow detainees who come from the Middle East countries where they experienced the growing hostility of the Americans towards the Muslim and Arab communities.<sup>898</sup> When he demanded

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<sup>893</sup> M. O. Slahi, con Larry Siems, *12 anni a Guantánamo*, traduzione di Giovanni Zucca, I Edizione 2015, Edizioni Piemme S.p.A, Milano, 2015, p. 47.

<sup>894</sup> *Ivi*, p. 67.

<sup>895</sup> *Ivi*, p. 75.

<sup>896</sup> *Ivi*, p. 88.

<sup>897</sup> *Ibidem*.

<sup>898</sup> *Ibidem*.

to be questioned in front of a tribunal, as it is the norm when someone is accused of a criminal breach, the answer he received was that he and his other comrades were considered a problem of public security, so the ordinary laws could not be applied to their cases.<sup>899</sup>

Slahi started to see all the actions of the American inquisitors as the expression of the hypocrisy of their own country, where they preached for the equality of rights, peace and respect for the human rights but they are not willing to behave according to these principles when the negative times come.<sup>900</sup> The inquisitors were trained to even kill the detainees if it was necessary, without questioning the morality of their actions, since they received the orders from their supervisors.<sup>901</sup> Indeed, the United States acting like the states that sponsor torture and that they strongly condemn annually in their State Department Country Reports, lost their credibility on a moral high ground as a defender of the civilized world and showed its hypocrisy.<sup>902</sup>

### **3.8 Conclusions**

The arguments presented in this chapter demonstrated the consequences of an erroneous social construction based on the viewpoint of the dominant part of the society. It could be manipulated from the part of the politicians in order to achieve specific political or economic goals. This exploitation works both for the sexual construction and for the criminal one. For instance, speaking about this last one, Slahi permits us to understand how the governments could easily blur the lines between what is permissible and what is unlawful.<sup>903</sup> He criticizes both the actions of the American government, which broke the treaties it signed together with the other nations and the acting of the Mauritanian one, which violated its own constitution to permit his secret deportation in a foreign

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<sup>899</sup> *Ivi*, p. 110.

<sup>900</sup> *Ivi*, p. 129.

<sup>901</sup> *Ivi*, p. 183.

<sup>902</sup> B. Olshansky, *op. cit.*, p. 129.

<sup>903</sup> *Ivi*, p. 135.

country. If he was suspected of committing terrorist acts against the United States, the Mauritanian government, under the respect of International Law, should have searched for the proofs of his culpability and then he should have been processed under the criminal law of his own country.<sup>904</sup> Moreover, the Mauritians were not obliged to consign him to the Americans, because he was far away from the Afghan battlefield and formally the program of the *extraordinary renditions* should apply only to the fighters captured on the front.<sup>905</sup>

Similarly, the United States could not put in place a sort of Nuremberg excuse to cover their operations. First of all, because the end of the Second World War marked the beginning of the contemporary international community based on the mutual respect of International Law and on the idea of deterrence. The United States diverted from the common path, over-reacting to the 9/11 attacks, compromising the current believing in the democratic values. The second reason is strictly legal, since the Eichmann trial changed deeply some of the concepts based on the exclusion of the superior orders as a defense in a trial.<sup>906</sup> The Supreme Court noted that the superior orders could not be used as a defense to dismiss the accuses of a military defendant in case of genocide, crimes against humanity and war crimes.<sup>907</sup> The action perpetrated at the Guantánamo base inevitably fall on two of these three branches. Moreover, the act of State defense does not deprive a foreign court from trying a person charged with crimes under International Law.<sup>908</sup> So, "those who participated in such acts must personally account for them and cannot shelter behind the official character of their task or mission, or behind the laws of the State by virtue of which they purported to act."<sup>909</sup> Furthermore, with the

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<sup>904</sup> *Ivi*, p. 165-166.

<sup>905</sup> *Ibidem*.

<sup>906</sup> Amnesty International, *Eichmann Supreme Court Judgement. 50 years on, its significance today*, Amnesty International Publications, London, 2012, <https://www.amnesty.org/en/documents/IOR53/013/2012/en/>, p. 9. Online Access: 02/01/2016.

<sup>907</sup> *Ibidem*.

<sup>908</sup> *Ivi*, p. 8.

<sup>909</sup> *Ivi*, p. 9.

implementation of the human rights conventions the abduction of suspects across the national frontiers is no more a matter of sovereign demands from the part of the government of the defendant citizenship,<sup>910</sup> but it is a restriction on personal liberties so even if the State is compliant with an unlawful request of extradition, the single is in the right of protesting for the mistreatment. Moreover, since the differences and the conflicts originated on a gender base are an important aspect of the international security, an effective counter-strategy based on equality could be decisive in the defeating of the terrorist groups.<sup>911</sup>

In the next chapter I will try to better analyze the problem of the counter-terrorism measures, actualizing it with an outlook on the recent facts of Paris.

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<sup>910</sup> *Ivi*, p. 17.

<sup>911</sup> OSCE, UN Women, *op. cit.*, p. 5.

## 4.

### **The Human Rights Concern and the Current Evolution of Terrorism.**

#### **Terrorism.**

If a plant cannot live according to its nature, it dies; and so a man.

H. D. Thoreau, *Civil Disobedience and Other Essays*.

*Summary:* 4.1 Human Rights and Counter-Terrorism: Are They Really Contrasting Doctrines?; 4.2 ISIS and the New Insurrectional Terrorism (NIT); 4.3 De-radicalization Process: Virtuous and Wrongful Paths; 4.4 Conclusions.

In the second chapter I mentioned the definitions some international organizations have assumed to define the phenomenon of terrorism, concentrating in particular on the Security Council and on the European Union. I will try to reunite some different political, legal and social aspects to open the ground for the final conclusions. In the first part I will analyze with a more attentive eye the problem of the respect of human rights, expanding the notions that I have touched slightly with the presentation of the Guantánamo case. Precisely, I will report that the human rights conventions could not be abandoned every time the military interest need it. After that insight, I will update the situation on ISIS organization, giving more specific information on its actual state-building intentions, which put the international community in the urgency to redefine the counter-terrorism strategies. The tactics that the Islamic State is exploiting both in the Middle East and in Europe have radically changed, so some scholars thought to define a new conception of terrorism, that is the New Insurrectional Terrorism (NIT). In the last part, I will present the

possible evolutions in the counter-terrorism policies, reporting also some projects that have been implemented by some States. Moreover, I will add the description of a personal experiencing I made in the United Kingdom while attending a meeting with the Sussex Police, actualizing the European and English attempts in the light of the decisions the European governments are making after the Paris attacks.

#### **4.1 Human Rights and Counter-Terrorism: Are They Really Contrasting Doctrines?**

The problem of the contrast of terrorism has always been a modern concern and a huge amount of international documents have been conceived from the part of different legal and international bodies. For instance, the General Assembly of the United Nations released in September 2006 a document called *UN Global Counter-Terrorism Strategy* where four pillars the competent bodies pictured the four pillars on which they would concentrate to contrast terrorism, that were the addressing of the conditions conducive to the spread of terrorism, the preventing and combatting terrorism through the building of the State's capacity to prevent and to combat terrorism and the strengthening of the role of the United Nations while ensuring the respect for human rights for all and the respect of the rule of law.<sup>912</sup> In particular, the fourth pillar is put under the lens, since all the Resolutions<sup>913</sup> and the Framework Decisions<sup>914</sup> that have been implemented until today have always

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<sup>912</sup> A. Conte, op. cit., p. 67.

<sup>913</sup> UN SC Resolution 635/1989; UN SC Resolution 687/1991; UN SC Resolution 748/1992; UN SC Resolution 731/1992; UN SC Resolution 1044/1996; UN SC Resolution 1054/1996; UN SC Resolution 1189/1998; UN SC Resolution 1214/1998; UN SC Resolution 1267/1999; UN SC Resolution 1269/1999; UN SC Resolution 1333/2000; UN SC Resolution 1363/2001; UN SC Resolution 1368/2001; UN SC Resolution 1377/2001; UN SC Resolution 1373/2001; UN SC Resolution 1456/2003; UN SC Resolution 1535/2004; UN SC Resolution 1540/2004; UN SC Resolution 1566/2004; UN SC Resolution 1624/2005; UN SC Resolution 2625/2005; UN SC Resolution 1963/2010; UN SC Resolution 2129/2013; UN SC Resolution 2133/2014; UN SC Resolution 2253/2015.

<sup>914</sup> Council Framework Decision 2001/500/JHA; Council Framework Decision 2002/475/JHA; Council Framework Decision 2008/977/JHA; Council Framework Decision 2008/913/JHA; Council Framework

pledged the respect for the human rights while assuring to justice the suspected terrorists.

Human rights and freedoms could be said that “inherently belongs to human by virtue of their being human”,<sup>915</sup> and their full spectrum involves the respect for, the fulfilment and the protection of civil, cultural, economic, political and social rights as well as the right to development.<sup>916</sup> The documents that have been created to defend the sacredness of this domain of the human life are countless, but usually the jurists take the International Bill of Human Rights as the main point of reference.<sup>917</sup> The Bill is not a treaty itself, but it refers to five major documents that are The Universal Declaration on Human Rights (GA Res 217/III), The International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and its Two Optional Protocols.<sup>918</sup> Nonetheless, the international human rights law is not limited to the enumerations of rights and liberties that are contained in these treaties, on the contrary it include rights and freedoms that have become part of the Customary International Law.<sup>919</sup> Since some of these rights are recognized a special status as norms of *jus cogens*,<sup>920</sup> and their peremptory conditions has been recognized under International Law Commission’s Article on State Responsibility,<sup>921</sup> they could not be derogated under any possible circumstance, as for the prohibition of torture, slavery, genocide, racial discrimination, crimes against humanity and the right to self-determination.<sup>922</sup> In particular, the European Convention for the Protection of Human Rights and Fundamental

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Decision 2008/919/JHA; Council Framework Decision 2009/299/JHA; Council Framework Decision 2009/948/JHA.

<sup>915</sup> A. Conte, op. cit., p. 259.

<sup>916</sup> *Ibidem*.

<sup>917</sup> *Ivi*, p. 260.

<sup>918</sup> *Ibidem*.

<sup>919</sup> *Ivi*, p. 261.

<sup>920</sup> *Ibidem*. *Jus Cogens*, that is peremptory norms of Customary International Law.

<sup>921</sup> *Ibidem*. International Law Commission, Draft Articles on Responsibility of States for Internationally Wrongfull Acts with commentaries, 2001 (United Nations, 2005) 281 (n. 675).

<sup>922</sup> *Ibidem*.

Freedoms (ECHR) and its 14 Additional Protocols,<sup>923</sup> together with the International Covenant on Civil and Political Rights (ICCPR),<sup>924</sup> represent the two main papers that are always been used to define the contemporary domain of the human rights.<sup>925</sup> This two documents provide, respectively at Article 1 and Article 2(1), the obligation,<sup>926</sup> for every State Party of the Conventions to permit to every individual,<sup>927</sup> submitted to their territory and jurisdiction, the enjoyment of the rights reported in the very documents without any distinction based on race, color, sex, language, religion, political opinion, national or social origin, property, birth or other status.<sup>928</sup> Unfortunately, excepting from the above-mentioned documents the other conventions or treaties that represents human rights law, together with the IHL, lack a system of judicial control.<sup>929</sup> According to this notion, the Human Rights Committee (HRC) or the European Court of Human Rights (ECHR) could monitor the compliance of some individual complaints, but usually they could not bound legally a State in its entirety to refrain from violating these norms.<sup>930</sup>

After the premises made for the Guantánamo case, it is important to underline a few passages. First of all, the previous papers referred to individuals subjected to a State's territory or to its jurisdiction, meaning that all individuals, without distinguishing between citizens or non-citizens of that

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<sup>923</sup> *Ivi*, p. 262. The ECHR was adopted in November 1950, opened to signature 4 November 1950 and entered into force 3 September 1953, 213 UNTS 222 (entered into force 3 September 1953), article 59(2). It has 47 States parties, including the United Kingdom.

<sup>924</sup> *Ibidem*. The ICCPR was adopted by the UN General Assembly in December 1966 and entered into force on 23 March 1976. It is occasionally referred as one of the United Nations universal instruments. It has 162 State parties.

<sup>925</sup> *Ivi*, p. 270. Both these two documents establish supervising bodies for the control of the correct application and compliance of their obligations from the part of the States. The ICCPR with article 28 instituted the Human Rights Committee and the EHCR, under Article 19, established the judicial body of the European Court on Human Rights.

<sup>926</sup> *Ivi*, p. 265.

<sup>927</sup> *Ivi*, p. 263. The two instruments are concerned with the individual person and not collectives of individual or artificial legal persons such as corporations, charitable organizations or similar legal foundations.

<sup>928</sup> *Ibidem*.

<sup>929</sup> A. Rosas, *Counter-Terrorism and the Rule of Law: Issues of Judicial Control*, in *Counter-Terrorism, The Security Imperative and the Rule of Law*, A.M. Salinas de Friás, K.L.H. Samuel and N.D. White, eds., Oxford University Press, Oxford, 2010, p. 85.

<sup>930</sup> *Ibidem*.

particular State, have their rights to “an equal footing as far as they are the subjects of the relevant civil and political right guaranteed by the ICCPR and ECHR”.<sup>931</sup> One of the main problems that have been already presented during this dissertation regards the situations where the public governments believe that human rights could be derogated in order to secure the integrity of the nation. Both the ECHR, under Article 15, and the ICCPR, under Article 4, allows States to suspend temporarily the application of certain rights during a state of emergency where the life of the nation is in danger.<sup>932</sup> So, the human rights law guarantee a certain degree of flexibility,<sup>933</sup> especially when States need to pursue important democratic objectives to protect the society (national security) and to maintain the balance between conflicting rights (freedom of expressions, privacy, fair hearing etc...).<sup>934</sup> On the other hand, there are some human rights that are impossible to be left aside, and they are divided between absolute and non-derogable rights.<sup>935</sup> The absolute rights are expressed in the ICCPR (Article 7) and in the ECHR (Article 3) as exonerated from any limitation,<sup>936</sup> and they usually refer to torture, cruel, inhuman or degrading treatment, slavery and servitude, the respect of the human dignity in situations of freedom deprivation, the right to be recognized before the law and the idea that no punishment should be implemented without law, the prohibition of propaganda and incitement to discrimination, hostility or violence and others.<sup>937</sup> Furthermore, while establishing the limitations that are possible during a state of emergency, the two documents said clearly what are the non-derogable rights such as life, torture, cruel, inhuman or degrading treatment,

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<sup>931</sup> Conte, op. cit., p. 264-265. This does not mean that all individuals are treated in the same way, since there are inevitably certain limitations both on the right of aliens and of who is not lawfully present within the territory.

<sup>932</sup> *Ivi*, p. 270.

<sup>933</sup> *Ivi*, p. 283.

<sup>934</sup> *Ibidem*.

<sup>935</sup> *Ivi*, p. 284. Two documents that are referred to in order to address the complex domain of the limiting of the human rights are the General Comment 29 of the HRC which focuses on a state of emergency under the ICCPR and the *Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights*.

<sup>936</sup> *Ibidem*.

<sup>937</sup> *Ibidem*.

slavery and servitude, imprisonment for failure to perform a contractual obligation, no punishment without the law, recognition before the law, and manifestation of religious belief.<sup>938</sup> The Human Rights Committee (HCR) noted also that the non-derogable rights include parts of obligation that are presented also in the International Humanitarian Law and the International Criminal Law,<sup>939</sup> since Article 4(1) of the ICCPR “requires that no measures derogating from the provisions of the ICCPR may be inconsistent with the State party’s other obligation under International Law”.<sup>940</sup> The HCR also identified the rights under Customary International Law that are to be considered non-derogable, such as the right of all persons deprived of their liberty to be treated with humanity and respect for their dignity, the prohibition against the taking of hostages, abductions or unacknowledged detention, the international protection of the rights of persons belonging to minorities, the deportation or forcible transfer of a population without grounds permitted under International Law and the prohibition against propaganda for war or in advocacy of national, racial or religious hatred that would incite discrimination, hostility or violence.<sup>941</sup> For instance, “no declaration of State of Emergency may be invoked as justification for a State party to engage itself in propaganda for war”.<sup>942</sup>

It is true that under the doctrine of the margin of appreciation,<sup>943</sup> developed extensively by the European Court of Human Rights, each society is entitled to a certain independence in resolving the inherent conflicts between individuals and national interests,<sup>944</sup> so the States surely have a certain amount of discretion in the conduct of their legislative, judicial or administrative affairs

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<sup>938</sup> *Ivi*, p. 285. The two documents do not coincide precisely, but in general they report the same contents. Usually absolute rights are also non-derogable rights, but not in any occasion and some non-derogable right could be subjected to limitations.

<sup>939</sup> *Ibidem*.

<sup>940</sup> *Ibidem*.

<sup>941</sup> *Ivi*, p. 285-286.

<sup>942</sup> *Ivi*, p. 286.

<sup>943</sup> *Ivi*, p. 288. It could be applied in two contexts: in determining the means of application of rights within the jurisdiction of one State party as opposed to another, and in the degree of leniency to be accorded to a State party in the determination of the existence of a state of emergency. See the case *Hertzberg v Finland* and *Toonen v. Australia*.

<sup>944</sup> *Ibidem*.

to the degree that they do not impinge the enjoyment of human rights.<sup>945</sup> Indeed, the European Court states that “by reason of their direct and continuous contact with the pressing needs of the moment, the national authorities are in principle in a better position than the international judge to decide both on the presence of a state of emergency and on the nature and scope of derogations necessary to avert it”.<sup>946</sup> Any restriction on the limitations of rights need to be prescribed by law, following the principle of legality,<sup>947</sup> and the States could use their discretionary powers, on the fact that they cannot be used in an arbitrary or unreasonable way,<sup>948</sup> so any law authorizing a restriction must not confer an unfettered discretion on those charged with its execution.<sup>949</sup> Both these last two requirements calls for adequate safeguards to ensure that the discretionary powers to be checked with appropriate mechanisms which could contrast any discretionary application.<sup>950</sup> However, it is important to clarify that the HRC has conceded the implementation of restrictions only in the cases where the danger to national security or to the democratic order have been detected as realistic ones, not hypothetical,<sup>951</sup> because in that case any margin of discretion from the part of the national authorities could be rejected by the Court.<sup>952</sup> So, to resume the issue, there are expressly non-derogable rights which could not have any limitation because of their absolute nature, rights non-derogable by implications because they result from International Customary Law, rights that are no capable of limitations because their derogation could circumvent the protection of some non-derogable rights and rights that are derogable and capable of limitation.<sup>953</sup>

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<sup>945</sup> *Ibidem*.

<sup>946</sup> *Ivi*, p. 290.

<sup>947</sup> *Ibidem*. Moreover, the principle of legality require that fundamental rights of fair trial is respected during a state of emergency. (Rosas, op. cit.)

<sup>948</sup> *Ivi*, p. 291.

<sup>949</sup> *Ibidem*.

<sup>950</sup> *Ibidem*.

<sup>951</sup> *Ivi*, p. 302.

<sup>952</sup> *Ibidem*.

<sup>953</sup> *Ivi*, p. 310.

In 2006, the Secretary General Kofi Annan identified the respect for human rights as one of the core values in the fulfilment of a correct counter-terrorism strategy.<sup>954</sup> It is surely understandable that the perpetration of terrorist acts undermine the enjoyment of the basic human rights of the victims, in particular referring to human life, liberty and physical integrity derived from the destabilization of governments.<sup>955</sup> This is a fact that has been cleared in different Resolutions published all over the years, starting from 1995,<sup>956</sup> where basically is assumed that terrorism create an environment where people are not able to live in freedom from fear.<sup>957</sup> The destructive impact of terrorism has been recognized by the Security Council, the General Assembly, the Human Rights Council and the Commission on Human Rights,<sup>958</sup> and even the States themselves could be condemned for terrorist acts within their territories, against other States and within the territories of other States,<sup>959</sup> and for that reason the UN Resolution invited the States to ban these kind of behavior. When the discussion arrives to human rights is important to remember the differences between the *Jus Ad Bellum* and the *Jus in Bello*.<sup>960</sup> The first one is a particular judicial discipline, contained under Article 2(4) of the UN Charter, that prohibit the use of force, or the threat of the use of force between States.<sup>961</sup> The Charter provides for two exceptions stating that military and coercive force could be used, in order to restore international peace and security, when the Security Council authorizes it, under Chapter VII, to answer to a threat, a

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<sup>954</sup> *Ivi*, p. 370.

<sup>955</sup> *Ibidem*.

<sup>956</sup> *Ivi*, p. 371. GA Res 50/186; UN GAOR, 50th Sess, 99th Plen Mtg; UN Doc A/Res/50/186 (1995) preambular paras 3,4,5 and 11, and operative para 2; GA Res 52/133, UN GAOR, 52<sup>nd</sup> Sess, 70<sup>th</sup> Plen Mtg, Un Doc A/Res/52/133 (1997) preambular paras 6,7,8 and 10, and operative para 3; GA Res 54/164, UN GAOR, 54<sup>th</sup> Sess, 83<sup>rd</sup> Plen Mtg, UN Doc A/Res/54/164 (1999) preambular paras 7,8,9 and 12, and operative paras 3; GA Res 56/160, UN GAOR, 56<sup>th</sup> Sess, 88<sup>th</sup> Plen Mtg, UN Doc A/Res/56/160 (2001) preambular paras 11,12 and 13; GA Res 58/174, UN GAOR, 58<sup>th</sup> Sess, 77<sup>th</sup> Plen Mtg, UN Doc A/Res/58/174 (2003) preambular paras 12,13,and 14; and GA Res 59/195, UN GAOR, 59<sup>th</sup> Sess, 74<sup>th</sup> Plen Mtg, UN Doc A/Res/59/195 (2004) preambular paras 12 and 13.

<sup>957</sup> *Ibidem*.

<sup>958</sup> *Ibidem*.

<sup>959</sup> *Ivi*, p. 374.

<sup>960</sup> *Ibidem*.

<sup>961</sup> *Ivi*, p. 375.

breach to or an act of aggression;<sup>962</sup> and when it is evoked the right of inherent and collective self-defence under Article 51.<sup>963</sup> As far as terrorism issue is concerned, any military action undertaken outside the parameters of Article 51 and non-authorized by the Security Council is considered unlawful. Moreover, usually no *pre-emptive* action is authorized by the Security Council, which prefers a *preventive* policy.<sup>964</sup> Considering this assumption, the actions of the Bush administration, which used anticipatory self-defence strategy after the attacks of 9/11 against the States harboring or supporting terrorism is not strictly legitimate,<sup>965</sup> similarly to the doctrine of the *extraordinary renditions* and the attempts to undo the validity of the human rights doctrine in face of the terrorists. On the contrary, the *Jus in Bello* is also known as International Humanitarian Law, is a body of principles and norms intended to limit human sufferings in times of armed conflict and to prevent atrocities.<sup>966</sup> It has been created to protect civilians and persons who are no longer taking part in the hostilities (sick, wounded, shipwrecked combatants, prisoners of war) respecting the principle of distinction,<sup>967</sup> and to restrict the methods and the means of warfare between the parties.<sup>968</sup> Even if there is no explicit definition of terrorism in the IHL a lot of acts that are prohibited in the above mentioned documents are usually tactics used in State terrorism and group terrorism,<sup>969</sup>

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<sup>962</sup> *Ibidem*.

<sup>963</sup> *Ibidem*. The military intervention in Afghanistan in 2002, already mentioned in this work, was authorized on the basis of article 51 and of the right to self-defence after an open attack to national security.

<sup>964</sup> *Ivi*, p. 376.

<sup>965</sup> *Ibidem*.

<sup>966</sup> *Ivi*, p. 377.

<sup>967</sup> *Ivi*, p. 378. According to the principle of distinction all parties to a conflict must at all times distinguish between civilians and non-combatants, so the attacks could aim only to military objectives, those objectives which by their location, nature, purpose or use make an effective contribution to military actions and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage.

<sup>968</sup> *Ivi*, p. 377.

<sup>969</sup> *Ivi*, p. 378. More specifically, "acts or threats of violence the primary purpose of which is to spread terror among the civilian population" are strictly prohibited under IHL in the First Protocol (n.41) article 13(2) and in article 51(2) of both Additional Protocols. The restrictions apply both to State and non-State actors.

and they could be prosecuted as serious crimes if committed in peace times.<sup>970</sup> Traditionally, it was assumed that the IHL and the Human Rights Law were two distinct areas with no contacts.<sup>971</sup>

Nowadays, on the contrary, it is believed that human rights law continue to apply in armed conflicts and it is subjected only to certain permissible limitations that have been already exemplified.<sup>972</sup> The core and essential difference between human right law and IHL is that the first one protects individual all the times whilst the second one is the *lex specialis* which applies only in situations of armed conflicts.<sup>973</sup>

A point that is stated another time in both branches and that the 1993 World Conference on Human Rights reaffirmed is that “freedom from torture is a right which must be protected under all circumstances, including in times of internal or international disturbance or armed conflict”.<sup>974</sup> Human rights are essential in the countering of terrorism and the States are obliged by law to comply with their international obligations.<sup>975</sup> Indeed, the respect of human rights does not require something special or extra from the part of the governments but, as Judge Myjer of the European Court of Human Rights remarked, they are only asked to do what they promised.<sup>976</sup> In order to contrast the possible violations of the norms on human rights, since as it was mentioned above there is no comprehensive organ for the monitoring of the implementations from the part of the States, the national courts should be empowered in a better way.<sup>977</sup>

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<sup>970</sup> *Ibidem*.

<sup>971</sup> *Ivi*, p. 380.

<sup>972</sup> *Ibidem*.

<sup>973</sup> *Ibidem*.

<sup>974</sup> *Ivi*, p. 381. The International Court of Justice in its advisory opinions regarding *The Legality of the Threat or Use of Nuclear Weapon* and *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territories*, that the protection of the ICCPR does not cease in time of war, except by operation of article 4.

<sup>975</sup> *Ivi*, p. 391.

<sup>976</sup> *Ivi*, p. 392.

<sup>977</sup> Rosas, *op. cit.*, p. 85.

## 4.2 ISIS and the New Insurrectional Terrorism (NIT)

On 29<sup>th</sup> June 2014 Abu Muhammad al-'Adnani, the second in command of al-Baghdadi, in an audio tape proclaimed that the Caliphate utopia came into being,<sup>978</sup> thanks to the seizure of the western part of Iraq to the detriment of the Sunni population. After this take over, al-'Adnani called all the Muslims from around the world, included all the jihadi groups, to recognize Al Baghdadi as new caliph and new accepted Islamic State's supreme authority, giving him the *bay'a* oath.<sup>979</sup> The second step included the ordering from the part of the Islamic State to emigrate to the territories under its control.<sup>980</sup> Until early 2014 the relations between al-Qaeda and ISIS were tense but they still collaborated with each other, with ISIS as a minor and dependent branch of the previous organization. After the refusing of the leaders of ISIS to withdraw from Syria in 2013,<sup>981</sup> the pro-al-Qaeda jihadists started to condemn the violent tendencies of the new group, declaring that they were "deviating from the path of Divine Truth, being unjust to the mujahideens, following the road of extremism, refusing arbitration, declining reform and disobeying the commands of its senior leaders and shayks."<sup>982</sup> The relations between the two terrorist groups broke inevitably and as soon as al-Baghdadi declared himself the new leader of this proto-state, with al-Qaeda members who pledged that the real Islamic authority was the Mullah Muhammad 'Umar, head of the Islamic Emirate of Afghanistan since 1996.<sup>983</sup> These two groups are locked in a mutual ideological war over the direction of jihadism,<sup>984</sup> a good point that could be exploited by the contrasting powers to undermine the validity of the Caliphate.

In the second chapter I mentioned the fact that ISIS, which now is mostly known only as the Islamic State, could be considered a sort of *quasi*-state, or

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<sup>978</sup> *Ivi*, p. 31.

<sup>979</sup> *Ibidem*.

<sup>980</sup> *Ivi*, p. 32.

<sup>981</sup> *Ivi*, p. 30.

<sup>982</sup> *Ibidem*.

<sup>983</sup> *Ivi*, p. 33.

<sup>984</sup> *Ivi*, p. 35.

proto-state as Bunzel called it. So, in light of the past two years of evolution of the movement, the Islamic State does could be really considered a quasi-State? Does it has the capabilities to administrate a territory and a population? Finally, how does these considerations change the counter-terrorism measures that have been implemented so far? Some scholars as the above-mentioned Hoyle, Bradford and Frenett consider the wording Islamic State as illegitimate.<sup>985</sup> Indeed, even if in the region a sort of state-like functions have been assembled, this entity has not been internationally recognized as a State,<sup>986</sup> so permitting the use of this expression could grant a certain degree of legitimacy to an institution that was formerly qualified as a terrorist and illegitimate organization.<sup>987</sup>

Indeed, on 17<sup>th</sup> December 2015, the Security Council approved in its 7587<sup>th</sup> meeting the UN SC Resolution 2253/2015, expanding sanctions framework to include the Islamic State.<sup>988</sup> This Resolution was jointly sponsored by the United States and the Russian Federation, and co-sponsored by a broad array of governments, and the Council decided that these measures will be reviewed in 18 months or sooner.<sup>989</sup> Moreover, the Council stressed out that “States would take appropriate measures to promote enhanced vigilance by their nationals, persons subject to their jurisdiction and entities incorporated on their territory, to prevent ISIL, Al-Qaida and associated individuals and groups from obtaining, handling, storing, using or seeking access to all types of explosives or raw materials that could be used in their manufacture”,<sup>990</sup> to better control also the foreign fighters phenomenon. In this document the United Nations

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<sup>985</sup> Hoyle, Bradford and Frenett, op. cit., pg, 9.

<sup>986</sup> *Ibidem*.

<sup>987</sup> *Ibidem*.

<sup>988</sup> United Nations Security Council, *Unanimously Adopting Resolution 2253 (2015), Security Council Expands Sanctions Framework to Include Islamic State in Iraq and Levant*, in Meetings coverage and Press Releases, 17 December 2015, <http://www.un.org/press/en/2015/sc12168.doc.htm>. Online Access: 07/01/2016.

<sup>989</sup> *Ibidem*.

<sup>990</sup> *Ibidem*.

recognized ISIS as “a splinter group of Al-Qaida”<sup>991</sup>, reminding that they are now two different entities the MS need to contrast. So far, it is the longest and the most comprehensive resolution the SC released after the beginning of the War on Terror, where the signatories States tried to recall all the issues that have been raised in the recent years. The ONU declared that acting under the Chapter VII of the UN Charter the organization decided that the al-Qaeda Sanctions Committee is transformed in the ISIL (Da’esh) and al-Qaeda Sanctions Committee and the same has occurred for the Sanctions List.<sup>992</sup> Furthermore, all the MS are compelled to undertake contrasting actions against ISIS, al-Qaeda, and associated individuals, groups, undertakings and entities as asset freeze,<sup>993</sup> travel ban, arms embargo, listing of suspected,<sup>994</sup> implementation of mutual assistance measures in the intelligence and police domain,<sup>995</sup> fulfilling in the refraining from the financing of terrorism,<sup>996</sup> and implementation of the control of the travel documents consulting of the above mentioned Lists when they have to release a Visa permission.<sup>997</sup> It also exhorts the focal Committees to fortify their actions and to collaborate in a better way to accomplish their tasks.<sup>998</sup> Moreover at point 97, the SC decided to ask to the Secretary General an initial strategic-level report on ISIS that could “demonstrates and reflects the gravity of the aforementioned threat, including foreign terrorist fighters joining ISIL and associated groups and entities, and the sources of financing of these groups including through illicit trade in oil, antiquities, and other natural resources, as well as their planning and facilitation of attacks, and reflects the range of United Nations efforts in support of Member States in countering this threat, in 45 days and provide updates

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<sup>991</sup> *UN SC Resolution 2253/2015*, [http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s\\_res\\_2253.pdf](http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_res_2253.pdf), United Nations Security Council, 17 December 2015, p. 2. Online Access: 07/01/2016.

<sup>992</sup> *Ivi*, p. 5.

<sup>993</sup> *Ibidem*.

<sup>994</sup> *Ivi*, p. 6.

<sup>995</sup> *Ivi*, p. 7.

<sup>996</sup> *Ivi*, p. 8.

<sup>997</sup> *Ivi*, p. 10.

<sup>998</sup> *Ivi*, p. 18.

every four months thereafter, with the input of CTED, in close collaboration with the Monitoring Team, as well as other relevant United Nations actors”,<sup>999</sup> in order to better understand the governmental structure of ISIS and to envision a good strategy to stop its financing.<sup>1000</sup>

When the Secretary-General Ban Ki-moon opened the meeting he said that ISIS ran a multimillion-dollar economy thanks to different sources and the fact that other terrorist groups from Boko Haram to Al-Shabaab and the Taliban are following its path, employing elusive tricks to raise and transfer funds and leaving little evidence for governments and the private sector to identify the tainted resources, is most preoccupying.<sup>1001</sup> The different foreign Ministers for Finances underlined also the difficult task to stop the financing, and the Minister for Finance and Public Accounts of France urged its colleagues to improve financial intelligence and ensure capabilities to track suspect flows.<sup>1002</sup>

Despite the official acknowledgements, ISIS has demonstrated that it has the capacity to actually govern both rural and urban areas in Syria,<sup>1003</sup> through an holistic system of governance that includes the most important aspects of human and social life, going from the religious and educational branch to infrastructure projects.<sup>1004</sup> ISIS has divided its governance in two categories that are administration and service-oriented bureaus, where the previous one has the task to manage the religious outreach, the law enforcement, the educational programming, the public relations with tribals,<sup>1005</sup> and the recruitment,<sup>1006</sup> whilst the second, known as the Department of Muslim Services,<sup>1007</sup> is mostly engaged in humanitarian aid, bakery and key infrastructures such as water and

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<sup>999</sup> *Ivi*, p. 20.

<sup>1000</sup> United Nations Security Council, Press Release of the 17 of December 2015, op. cit.

<sup>1001</sup> *Ibidem*.

<sup>1002</sup> *Ibidem*.

<sup>1003</sup> C. G. Charis, S. Reynolds, *ISIS Governance in Syria*, Middle East Security Report N. 22, Institute for the Study of War, Washington DC, July 2014, p. 4, [http://www.understandingwar.org/sites/default/files/ISIS\\_Governance.pdf](http://www.understandingwar.org/sites/default/files/ISIS_Governance.pdf). Online Access: 07/01/2016.

<sup>1004</sup> *Ibidem*.

<sup>1005</sup> *Ibidem*.

<sup>1006</sup> *Ivi*, p. 14.

<sup>1007</sup> *Ibidem*.

electricity lines.<sup>1008</sup> The Islamic State started its mandate under the military legitimization of its territorial conquests, however the configuration of the military campaign proves that the leaders have envisaged it as a transition from military control to political control,<sup>1009</sup> since to remain in its place it has to win the support of the civil population, furnishing all the services that they could find in a formal State.<sup>1010</sup> The Caliphate, in reality, demonstrated that its goal is to construct an alternative to the modern states,<sup>1011</sup> however regardless these apparent functions, the real essence of the Islamic State lays on coercive and brutal control,<sup>1012</sup> where the majority is built on the elimination of the resistance.<sup>1013</sup>

Nonetheless, ISIS governs its territories in different ways, depending on the strategic importance of the outpost, in Raqqa for instance ISIS showed all its military possibilities in a parade through the streets of the city, instituting also come checkpoints around every entrance.<sup>1014</sup> Every time the first attempt to gain the affection of the local population of a conquered territory goes through the exploitation of the religious domain, with the organization of some festivals called *Da'wa* where ISIS supporters recite the Quran and religious sermons to educate to the participation to its core beliefs.<sup>1015</sup> Moreover, the establishment of good governance structure is one of the most important reasons of the attempts of controlling strategic towns, since the political control is as core as the military dominion.<sup>1016</sup> When ISIS wants to maintain a greater dominance it tends to employ more sophisticated governance, developing lasting institutions,<sup>1017</sup> as in Raqqa. On the contrary in rural areas and in other places that are not

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<sup>1008</sup> *Ivi*, p. 4.

<sup>1009</sup> *Ivi*, p. 9.

<sup>1010</sup> *Ibidem*.

<sup>1011</sup> *Ivi*, p. 10.

<sup>1012</sup> *Ivi*, p. 9.

<sup>1013</sup> *Ivi*, p. 5.

<sup>1014</sup> *Ivi*, p. 13.

<sup>1015</sup> *Ivi*, p. 15.

<sup>1016</sup> *Ivi*, p. 14.

<sup>1017</sup> *Ibidem*.

strategically vital, it displays more temporary and less-intensive resources.<sup>1018</sup> Generally, to administer and divide the territory, both in Syria and Iraq, the Islamic State implemented a *Wilayat* system, where *wilayat* stands for “state” or “mandate”.<sup>1019</sup> One of the new services introduced by the Islamic State, and that is very similar to the reminiscence of the Nazi enforcements, is the religious police *al-Hisba*, that has the duty to promote virtue and prevent the manifestation of disobedience.<sup>1020</sup> The members of this police force have the task to report any violation of the *sharia* laws and find a solution to the same and, at July 2014, it has registered at least 470 violations only in one month during their patrols that, usually are between 9 and 10 per day.<sup>1021</sup> Usually, after the reporting of the violation, it follows a punishment called *hudud*, that took the form of a public execution in the main square of the city.<sup>1022</sup> Related to the religious reality of the Islamic State, there is another preoccupying attitude that has been developed from the foundation of this pseudo-government, that is the discrimination and public labelling of the minorities.<sup>1023</sup> In the previous chapter the violence used against the Yazidi minority has been already reported, but it is essential to underline that the leaders of the Islamic State are using a sort of *dhimmi* status, that historically was thought to defend the rights of the minorities, to disenfranchise these people from their rights.<sup>1024</sup> Christians in Raqqa are forbidden to display any aspect of their religion outside churches and they must pay a *jizya*, a taxation for their non-Muslim being, in order to be permitted to live in the city.<sup>1025</sup>

All this form of organization, combined with the recruiting campaigns described in the previous chapters, demonstrate how the Islamic State is

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<sup>1018</sup> *Ibidem.*

<sup>1019</sup> *Ibidem.*

<sup>1020</sup> *Ivi*, p. 15.

<sup>1021</sup> *Ivi*, p. 16.

<sup>1022</sup> *Ivi*, p. 19.

<sup>1023</sup> *Ivi*, p. 16.

<sup>1024</sup> *Ibidem.*

<sup>1025</sup> *Ibidem.*

planning to remain permanently in the Syrian territory.<sup>1026</sup> The raising of schools and the luring of young and unmarried women confirm that the organization is trying to develop a next generation of mujahideens, since it does not see itself as a movement anymore but as a sovereign state educating its citizens.<sup>1027</sup> In order to cover the possible weak points of its organizing machine they have been employing persons, mostly from the foreign countries, who have a technical background, for example on the June 5, 2014 number of *Dabiq* the publishers called for skilled professionals to immigrate to Syria,<sup>1028</sup> but this could not be enough to ensure its own stability, so ISIS should enforce in the educational domain new subject areas and not only the religious doctrine.<sup>1029</sup> The chiefs are also spending a lot of resources on the judiciary branch, since they developed a Court of Grievances where the local citizens could present their complaints for an incorrect behavior of ISIS fighters.<sup>1030</sup> ISIS is also trying to normalize its fighting corps in an effective military army through the public advertising of its recruitment campaign, to gain the total respect of the international community and the control of the public.<sup>1031</sup>

However, behind the façade of a presumed political and social legitimization, the reality of ISIS territories is full of extrajudicial events and torture is exploited everyday against the dissidents,<sup>1032</sup> ISIS holds at least seven detention facilities in Raqqa and Aleppo.<sup>1033</sup> ISIS system leaves no room for political, religious or civil dissent and Amnesty International continues to report frequent human rights violations,<sup>1034</sup> even if ISIS could not afford to lose the civilian support.<sup>1035</sup> All these observations enlighten how the Islamic State, from 2014 till now, is adopting a sort of post-war mentality, since it has already

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<sup>1026</sup> *Ivi*, p. 18.

<sup>1027</sup> *Ibidem*.

<sup>1028</sup> *Ivi*, p. 24.

<sup>1029</sup> *Ivi*, p. 18.

<sup>1030</sup> *Ivi*, p. 19.

<sup>1031</sup> *Ivi*, p. 20.

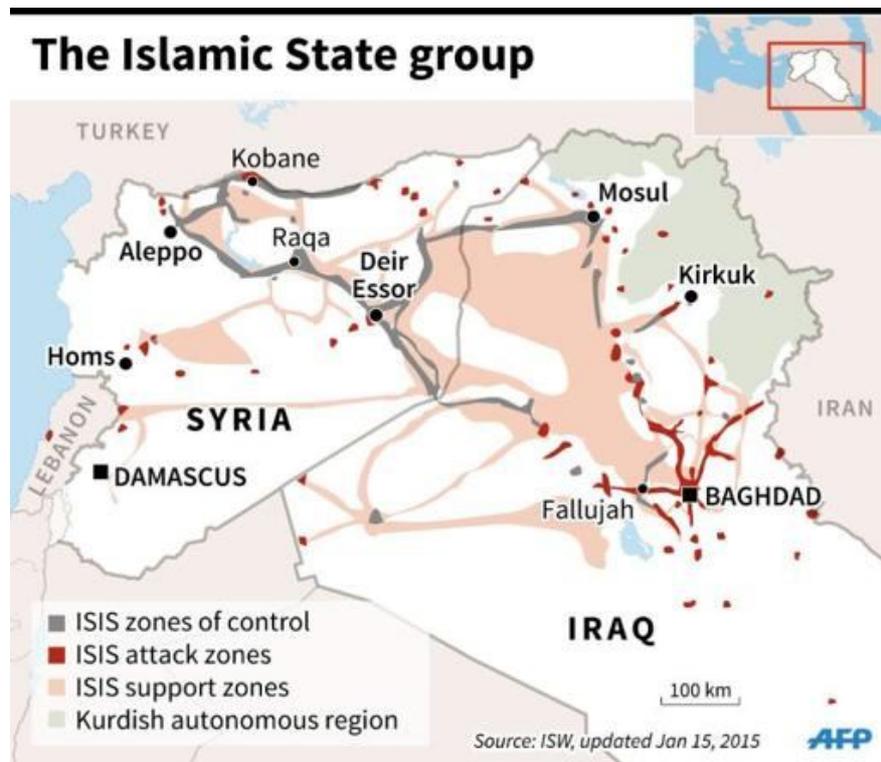
<sup>1032</sup> *Ivi*, p. 19.

<sup>1033</sup> *Ibidem*.

<sup>1034</sup> *Ibidem*.

<sup>1035</sup> *Ibidem*.

conquered a territory through its military forces, that are strong enough to defend the borders, so it is concentrating on populating the Caliphate.<sup>1036</sup> ISIS is demonstrating that he could fill the gap between the war-making process to the state-making one,<sup>1037</sup> sometimes there is a withdrawing of the forces but for the majority of the time, as long as the leaders continue to administrate justice and governing the support to this group will continue to grow.<sup>1038</sup> Furthermore, the military campaign of the Coalition, regardless of its long-term success, could strengthen the fundamentalist and conspiratorial ideology of the extremists.<sup>1039</sup> In particular, they could reinforce the idea that the Shi'a Muslims are conspiring with the Americans and the Arabs to limit the Sunni powers in the Middle East.<sup>1040</sup>



I reported this map of the Institute of the Study of War to show graphically how the Islamic State spread its territorial influence in the Syrian an Iraqi

<sup>1036</sup> *Ivi*, p. 24.

<sup>1037</sup> *Ivi*, p. 25.

<sup>1038</sup> Bunzel, op. cit, p. 36.

<sup>1039</sup> *Ibidem*.

<sup>1040</sup> *Ibidem*.

region. So far, the United States in the latest part of 2015 tried to led an air campaign to roll back the Islamic State's advances, however it resulted only in an escalation in international intervention.<sup>1041</sup> The U.S.-led coalition worked with Iraqi national security forces and the Kurdish militias in Iraq; some of those forces have also worked with Shia militias but the situation seems to be at stall.<sup>1042</sup> There is a real possibility that the Islamic State could enlarge its territorial and political domain not only thanks to its military capabilities but also thanks to the sympathy and the common grounds it could encounter in other confining and/or friendly states like Egypt, Libya, Nigeria, Pakistan and Afghanistan where some people have already sworn allegiance to al-Baghdadi.<sup>1043</sup> In any case, it is still unclear if these new allies really want to devote themselves to ISIS or if they are only trying to capitalize on its notoriety as they compete with rival groups in local contests for power.<sup>1044</sup>

The fact that the actions of the Islamic State are effectively changing the major perception of the crime of terrorism is a reality, since surely the strategies that have been thought to contrast a simple movement with a few followers are not possible against thousands of supporters. In this sense a group of experts have decided to coin a new definition for contemporary terrorism, that is *New Insurrectional Terrorism* (NIT), which has the ambition to actualize the worldwide perception of the terrorist acts.<sup>1045</sup> Claudio Bertolotti, Ph.D strategic analyst and Subject Matter Expert for the NATO, explained this idea in the details. In his analysis for the ISPI institute Bertolotti underlined that the fundamentalist violence relocated its performing in the European field and the attacks of Paris demonstrated that it could not be subscribed anymore under

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<sup>1041</sup> Z. Laub, J. Masters, *The Islamic State*, on Council of Foreign Relations Online, updated November 16, 2015, <http://www.cfr.org/iraq/islamic-state/p14811>. Online Access: 08/01/2016.

<sup>1042</sup> *Ibidem*.

<sup>1043</sup> *Ibidem*.

<sup>1044</sup> *Ibidem*.

<sup>1045</sup> C. Bertolotti, *NIT: "il nuovo terrorismo insurrezionale", dalla "5+5 Defense Initiative 2015", il cambio di approccio alla minaccia dello Stato Islamico*, Analysis No. 292, 16 December 2015, online on the website of the Istituto per gli Studi di Politica Internazionale (ISPI), Milano, p. 1, [http://www.ispionline.it/sites/default/files/pubblicazioni/analisi292\\_bertolotti\\_16.12.2015.pdf](http://www.ispionline.it/sites/default/files/pubblicazioni/analisi292_bertolotti_16.12.2015.pdf). Online Access: 07/01/2016.

the label of conventional terrorism.<sup>1046</sup> He reiterated that ISIS is a kind of Sunni theocratic proto-State which is expanding its influence both at a global and a local level.<sup>1047</sup> The exponents of this pseudo-government have demonstrated their conquering abilities, described in the previous paragraphs, but they are also attempting to construct a kind of terrorism in “franchising” both introducing more sophisticated urban warfare techniques,<sup>1048</sup> and pledging agreements with other groups of armed opposition in order to mutually support the different political claims.<sup>1049</sup> The analyst wants to leave aside the ideological and political quarrels about the international legal definition of terrorism and proposes to study the problem from another perspective, emphasizing that in its essence terrorism is a military strategy aimed at the achievement of particular objectives.<sup>1050</sup> So, with the purpose to surpass the previous quarrels on the topic he prospected the insertion of terrorism in a more mutable, dynamic and multidimensional approach.<sup>1051</sup> This new prospect has been proposed in 2015 from the working group of the intergovernmental “5+5 *Defense Initiative*” for the securing of the Mediterranean Area.<sup>1052</sup> This New Insurrectional Terrorism is defined as the use, or the threat of using, violence in an intentional, rational and calculated way in order to pursue political, religious or ideological purposes.<sup>1053</sup> So, the NIT is characterized by the use of violence for the achievement of a goal, usually political but comprehensive of socio-economic and religious elements, finalized at the creation of a territorial proto-State model where the terrorism movement has the monopoly of the use of

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<sup>1046</sup> *Ivi*, p. 3.

<sup>1047</sup> *Ibidem*.

<sup>1048</sup> *Ivi*, p. 2.

<sup>1049</sup> *Ivi*, p. 3.

<sup>1050</sup> *Ivi*, p. 4.

<sup>1051</sup> *Ivi*, p. 5.

<sup>1052</sup> *Ibidem*. The *5+5 Defence Initiative* is a multilateral co-operation initiative which aim is to promote the security in the Western Mediterranean region through the mutual understanding and tight cooperation in the military field of its member-countries. From the home of the *5+5 Defence Initiative* <http://www.5plus5defence.org/EN/PagesEN/home.aspx>.

<sup>1053</sup> *Ivi*, p. 6.

force.<sup>1054</sup> At its initial stage it could be considered just a phenomenon, but on a second time it becomes strategic and it coordinates different actions that could not be strictly interconnected, it is transnational and based on the principle of flex-adaptability, the battlefield is three dimensional (real, virtual and cybernetic) and the targets are both the combatants and the non-combatants.<sup>1055</sup> The NIT, as Bertolotti wrote, is the perfect expression of a global conflicting scenery where there are movements both aimed at the demolition of the Western governments and of the States of the Middle East, the destabilization of the system of International Relations and the consequent imposition of a new order that will last during the years thanks to the abatement of its alternatives.<sup>1056</sup> Indeed, the way the warfare is considered is changing and Bertolotti underlines how the Western states, which focus more on technology and classic "state versus state" warfare, forgot that there are other kinds of military tactics that have been massively used in the latest years by their enemies.<sup>1057</sup> Itai Brun, the outgoing head of the Israel's Military Intelligence, indicated some vulnerabilities in the strategic Western thinking that could leave a margin to the insurgents and these usually are: an excessive emphasis on high-trajectory weapons, a major degree of survivability of the fighting forces, a media centered propaganda influencing the local and the international communities, the resorting to technologies that result in a great number of casualties.<sup>1058</sup> As a confirmation of this last sentence it is possible to assert as a fact that the actual U.S.-led coalition, which includes the European Union and several Sunni Arab states, adopted from mid-May 2015 a massive airstrike policy, resulting now in an average number of nearly four thousand

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<sup>1054</sup> *Ivi*, p. 6-7.

<sup>1055</sup> *Ivi*, p. 7.

<sup>1056</sup> *Ibidem*.

<sup>1057</sup> C. Bertolotti, A. Beccaro, *Suicide Attacks: Strategy, from the Afghan War to Syraq and Mediterranean Region. A triple way to read the asymmetric threats*, on *Sicurezza, Terrorismo e Società International Journal* Issue 2, EDUCatt Università Cattolica del Sacro Cuore, Milano, 2015, p. 26.

<sup>1058</sup> *Ivi*, p. 30.

airstrikes.<sup>1059</sup> As of early March 2015, the coalition had carried out nearly 1,500 airstrikes, 70 percent of them were unfastened by the U.S. forces.<sup>1060</sup>

According to the vision of Brun it is possible to say the contemporary wars are new for three main reasons: the aim, the fighting methods and the new war economies.<sup>1061</sup> The entire society has become a battlefield where destroying the enemy from the inside is more important than defeating it on the conventional ground.<sup>1062</sup> Bertolotti recalls the Hoffman's Hybrid Warfare theory to sustain his own, where the regular and irregular characteristics of the warfare are mixed together to give to the irregular fighters a better capability and more possibilities to stand against the regular armies.<sup>1063</sup> After the collapse of the Soviet Union and the Gulf War of 1991, the Middle East states had to change their perspectives in their tactics in a more functional way and within them the Hezbollah, Hamas and al-Qaeda where the first collections to change the tactics.<sup>1064</sup> John Robb, an American military analyst, also illustrated the theory of the "Open Source Warfare" to demonstrate how more rapid communication of failures and successes between the modern fighters can permit them to always be a step ahead of their enemies.<sup>1065</sup> Moreover, Robb added how these particular insurgent/terrorist groups use the "sabotage of critical systems to inflict economic costs on the target state",<sup>1066</sup> so the economic damage that is originated could be take long to be resolved,<sup>1067</sup> making the targets more vulnerable. The more the fight and the sparring fighting are prolonged during the time, the more the insurgent group could weaken the contrasting side while strengthening its own structure.<sup>1068</sup> Additionally, usually the Western states push for a quick intervention since they need to face the public opinion, so as

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<sup>1059</sup> Laub, Masters, op. cit.

<sup>1060</sup> *Ibidem.*

<sup>1061</sup> *Ivi*, p. 26.

<sup>1062</sup> *Ivi*, p. 27.

<sup>1063</sup> *Ibidem.*

<sup>1064</sup> *Ibidem.*

<sup>1065</sup> *Ivi*, p. 29.

<sup>1066</sup> *Ibidem.*

<sup>1067</sup> *Ibidem.*

<sup>1068</sup> *Ibidem.*

long as the opponents are able to engage their counterparts in a lasting struggle they increase their possibility to win the war.<sup>1069</sup>

Insurgency has been envisaged as one of the most important weapons of the terrorists, since for the regular forces is more difficult to fight in restricted areas, as the urban environment.<sup>1070</sup> Brun posed the emphasis on the fact that on those types of close battles the technological advantage is less crucial, since the streets, the monuments and the buildings limit the weapon's range, requiring a lot of ammunitions, soldiers and time.<sup>1071</sup> For the security forces is impossible to defend every possible target, so when they have to carry out a particular operation the terrorist forces could attack the least defended places exploiting their invisibility,<sup>1072</sup> making the major casualties that are possible to put it under the eyes of the international medias.<sup>1073</sup> ISIS organization has used these kind of strategies in their first official campaign named *Breaking the Walls*,<sup>1074</sup> and now they have proposed it in a different way with the attacks of the 11/13. The military measures the Coalition recently decided to adopt may contain the Islamic State for a short period of time, but are unlikely to help resolve the governance problem, that are part of the real essence of the issue.<sup>1075</sup> On the other hand, the diplomatic efforts of major powers appear deadlocked as the regime's backers and opponents remain unable to agree on what a political transition ought to look like.<sup>1076</sup>

Nevertheless, starting from the raid of the 24 of May 2014 at the Jewish Museum in Brussels, we can devise a new series of targeted assaults, which started to become more and more brutal. Later on, between August and

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<sup>1069</sup> *Ivi*, p. 30.

<sup>1070</sup> *Ivi*, p. 31.

<sup>1071</sup> *Ibidem*.

<sup>1072</sup> *Ivi*, p. 32.

<sup>1073</sup> *Ibidem*.

<sup>1074</sup> *Ivi*, p. 54. The *Breaking the Walls* campaign was held between July 2012 and July 2013 in Iraq, its three main goals were: the liberation of the former group members to strengthen the organization, the improving of their military capabilities, and the demonstration of the Iraqi military and political weaknesses.

<sup>1075</sup> Laub, Masters, op. cit.

<sup>1076</sup> *Ibidem*.

November 2014 there were the beheadings of three Americans and two UK citizens, where the perpetrator was suspected to be a British citizen. It followed on the 7 of January 2015, not even a year ago, the shocking shootings to the cartoonists of the French satirical magazine *Charlie Hebdo*. There have been a total amount of 17 victims, the number was still low, but the frequency had started to become disturbing. In the same month, on the 15 of January 2015, there was a strike in Belgium, another time, against a presumed terrorist cell that was planning supposedly an attack. Finally, on the 14 and 15 of February 2015 in Copenhagen, a Danish Muslim was charged for the killing of two individuals. Almost all the responsible were European-born citizens who went for a period in a conflict zone to receive a special training.<sup>1077</sup> Apparently most of them have already been radicalized in their home countries, maybe during internment periods. However, actually just a bunch of them fulfilled violent actions against their government after their return. This in part could be related to a different amount of reasons, like disillusionment and traumas they have experienced when they were in that places. Starting from 13<sup>th</sup> November 2015 with the Paris attacks, a new number of violent measures arose. The 11/13 was a deliberated attack against Europe to demonstrate that the conflict that blooded the Middle East has finally arrived in the West. The final balance ended with 129 deaths and 352 wounded, the total amount of places under siege in the city raised to six (Stade de France, Rue Alibert, Rue de la fontaine au roi, le Bataclan, Rue de Charonne, Boulevard Voltaire) in a short space of time.<sup>1078</sup> The assaults were launched mostly at the same time, the first one started at 21h20 and the last one was launched at 21h40.<sup>1079</sup> The assault to the stadium was envisaged to be the most lethal, but the terrorists were detected in advance so the balance has been different. The ones that were waged in the streets aimed at restaurants and cafés, where the vigilance of the police forces

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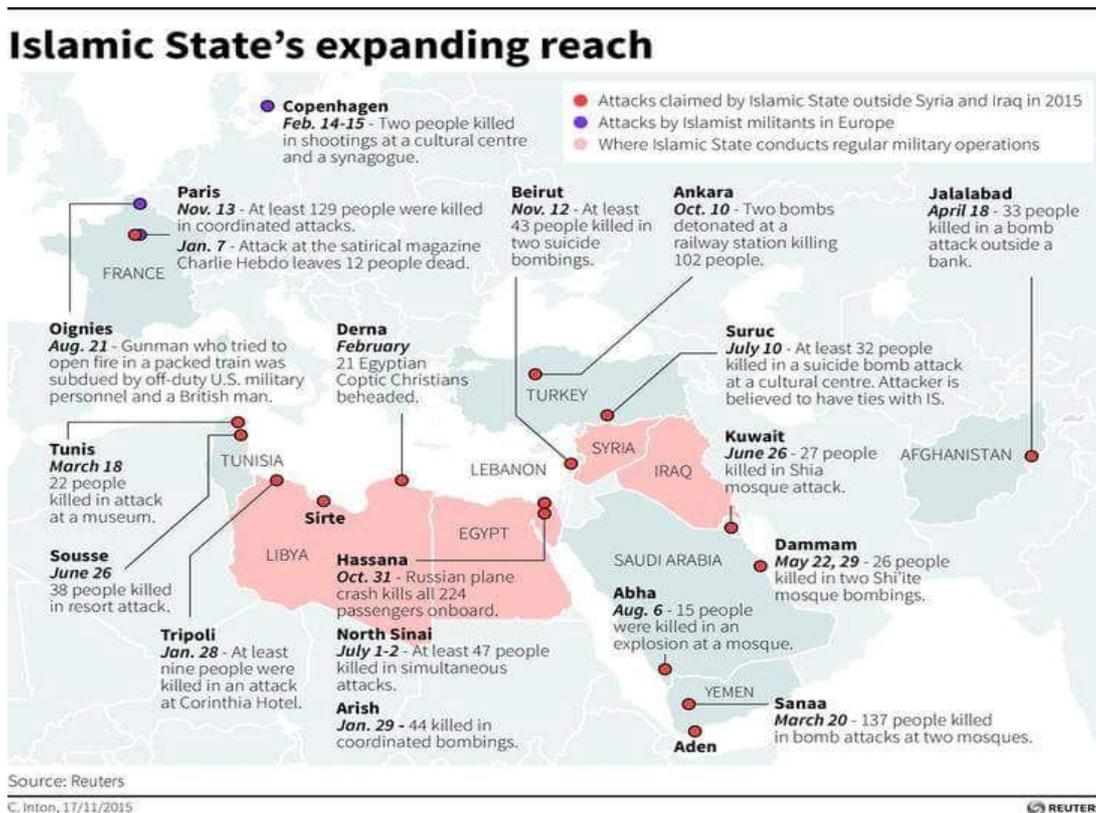
<sup>1077</sup> *Ivi*, p. 8-9.

<sup>1078</sup> Paris Match Online, *La carte des attaques à Paris*, 14 Novembre 2015, mise à jour le 16 Novembre 2015, <http://www.parismatch.com/Actu/Societe/La-carte-des-attaques-a-Paris>. Online Access: 11/01/2016.

<sup>1079</sup> *Ibidem*.

was less strict, and for that reason the death count is more elevated.<sup>1080</sup> The place which was stroke with the greatest amount of violence was a concert room, Le Bataclan, that had 89 deaths and 3 wounded.<sup>1081</sup> Later on, in the same month ISIS claimed responsibility for other attacks, as the downing of a Russian passenger jet over the Sinai peninsula shortly after Russia had begun conducting air strikes in Syria.<sup>1082</sup> Then they vindicated other two suicide bombings in a Shia-majority suburb of Beirut.<sup>1083</sup>

Undoubtedly, the Bertolotti's and the *5+5 Defence Initiative* theory on the revival of the insurgency concept surely has its most explicative expression in the Paris events. The map that I have reported below, realized by Reuters, illustrates in a more complete way the latest attacks the Islamic State perpetrated in the world.



<sup>1080</sup> *Ibidem.*

<sup>1081</sup> *Ibidem.*

<sup>1082</sup> *Ibidem.*

<sup>1083</sup> *Ibidem.*

### 4.3 De-Radicalization Process: Virtuous and Wrongful Paths

After the 11/13, Europe is experiencing a new security wage that has a lot of influences in different spheres of the social environment. The European Union in 2005 put in place a counter-terrorism strategy that was based on four pillars: Prevent, Protect, Pursue and Respond.<sup>1084</sup> The strategic commitment of the document stated that the European Union as a whole wanted to “combat terrorism globally while respecting human rights and make Europe safer, allowing its citizens to live in an area of freedom, security and justice”<sup>1085</sup>, so the EU wanted to collaborate for the spreading of global security while respecting the general treaties it has signed during the years.<sup>1086</sup> Accordingly it has imposed retaliations against third states, persons or group of persons, resorting also to economic sanctions presented under Article 215 and Article 75 TFUE.<sup>1087</sup> The EU stated that the duty to contrast terrorism first relies on the single Member States at a national and local level,<sup>1088</sup> but the EU could offer a great help to coordinate the work of the national polices for the sharing of information and good practices.<sup>1089</sup> For instance, the Strategy stressed out that

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<sup>1084</sup> Council of the European Union, *The European Union Counter-Terrorism Strategy*, Brussels, 30 November 2005, p. 6. <http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%2014469%202005%20REV%204>. Online Access: 11/01/2016.

<sup>1085</sup> *Ibidem*.

<sup>1086</sup> *Ivi*, p. 7.

<sup>1087</sup> Rosas, op. cit., p. 89. Art. 215 TFUE: “Where a decision, adopted in accordance with Chapter 2 of Title V of the Treaty on European Union, provides for the interruption or reduction, in part or completely, of economic and financial relations with one or more third countries, the Council, acting by a qualified majority on a joint proposal from the High Representative of the Union for Foreign Affairs and Security Policy and the Commission, shall adopt the necessary measures. It shall inform the European Parliament thereof. Where a decision adopted in accordance with Chapter 2 of Title V of the Treaty on European Union so provides, the Council may adopt restrictive measures under the procedure referred to in paragraph 1 against natural or legal persons and groups or non-State entities. The acts referred to in this Article shall include necessary provisions on legal safeguards”. Art. 75 TFUE: “Where necessary to achieve the objectives set out in Article 67, as regards preventing and combating terrorism and related activities, the European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, shall define a framework for administrative measures with regard to capital movements and payments, such as the freezing of funds, financial assets or economic gains belonging to, or owned or held by, natural or legal persons, groups or non-State entities.”

<sup>1088</sup> Council of Europe, *Counter-Terrorism Strategy*, op. cit., p. 8.

<sup>1089</sup> *Ibidem*.

the implementing of mainstream voices with a non-emotive lexicon could contrast the radicalized individuals and it could be really useful to contrast terrorism.<sup>1090</sup> Moreover, the Council underlined some political internal aspects that should be avoided if there is the aim to contrast efficiently terrorism, as the presence of poor or autocratic governances, rapid or unmanaged modernization as long as lack of political and economic prospects and educational opportunities.<sup>1091</sup> The Member States, to be more effective, should aim for good governance, human rights, democracy, education, economic prosperity and conflict resolution.<sup>1092</sup>

These policies are trying to soften the general situation of the European Community but a general movement towards the rejection of integration is growing stronger. In particular, a massive quarrel is disputed on the issue of the refugees who fled Syria to find a safe haven in Europe. The current State's imperative of security are prevailing over the democratic imperatives,<sup>1093</sup> permitting the posing of irrational restrictions on national immigration and refugee laws.<sup>1094</sup> They have become a sort of "soft option" that substitutes criminal justice procedures,<sup>1095</sup> coupling with feeling of resentment and xenophobia. Apparently, governments have reduced the margins of application to asylum requests, reducing at the same time the right to challenge the decision before a court.<sup>1096</sup> Usually, the domain of the refugees is governed by the Convention Relating to the Status of Refugees 1951 and its Additional Protocols of 1967,<sup>1097</sup> which objective was to protect people from persecution by their own national States.<sup>1098</sup> Of course, this policy also permits some restrictions under

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<sup>1090</sup> *Ibidem.*

<sup>1091</sup> *Ivi*, p. 9.

<sup>1092</sup> *Ibidem.*

<sup>1093</sup> A.M. Salinas de Frías, *State's Obligations Under International Refugee Law and Counter-Terrorism Responses*, in Counter-Terrorism, The Security Imperative and the Rule of Law, A.M. Salinas de Frías, K.L.H. Samuel and N.D. White, eds., Oxford University Press, Oxford, 2010, p. 111.

<sup>1094</sup> *Ibidem.*

<sup>1095</sup> *Ivi*, p. 112.

<sup>1096</sup> *Ivi*, p. 113.

<sup>1097</sup> *Ibidem.*

<sup>1098</sup> *Ibidem.*

Article 1(F) where it is stated that the Convention does not apply for persons who have committed a serious political or non-political crime,<sup>1099</sup> or if it has committed a violation of the principles of the United Nations.<sup>1100</sup> Together with those restricting conditions, the Article 33 also remembers the obligation of *non-refoulement* if the refugee could envision a restriction on his human rights if he is sent back, and in this regard the ECHR, in the already mentioned Articles 3 and 15 extended also to this obligation the absolute and non-derogable nature of the Convention.<sup>1101</sup> This rule is valid also under the threat of international terrorism.<sup>1102</sup> After the attacks in Cologne, the rejection towards Syrian, and the Muslim Community more broadly, has increased exponentially. Recently a massive protests parade in Cologne, where giant signs with the message "Rape Refugees Not Welcome" were shown,<sup>1103</sup> tried to force and answer on Angela Merkel and she confessed that Europe was vulnerable.<sup>1104</sup> Revenge assaults on Syrian, Pakistanis and Guineans were made by a number of hooligans. Politicians are pressing for the fact that the numbers have become too high to be handled, so a stop on immigration is needed.<sup>1105</sup>

However, the problem of the refugees opens another problematic issue that relates to the bombings from the part of the European powers. The French President François Hollande in September 2015 announced the possibility of French bombings on the infrastructures of the Islamic State in Syria,<sup>1106</sup>

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<sup>1099</sup> *Ivi*, p. 114. "The provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that: (a) He has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes; (b) He has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee; (c) He has been guilty of acts contrary to the purposes and principles of the United Nations."

<sup>1100</sup> *Ibidem*.

<sup>1101</sup> *Ivi*, p. 128.

<sup>1102</sup> *Ivi*, p. 129.

<sup>1103</sup> J. Shammas, '*Rape refugees not welcome*': Protesters in Cologne force Merkel response following mass New Year's Eve sex attacks, on The Mirror Online, 12 January 2016, <http://www.mirror.co.uk/news/world-news/rape-refugees-not-welcome-protesters-7162503>. Online Access: 16/01/2016.

<sup>1104</sup> *Ibidem*.

<sup>1105</sup> *Ibidem*.

<sup>1106</sup> François Hollande ouvre la voie à des bombardements en Syrie contre l'Etat islamique on Le Monde Online, 7 September 2015, <http://www.lemonde.fr/politique/article/2015/09/07/la->

justifying this decision with the fact that it was because of ISIS that the European refugee crisis was so hard.<sup>1107</sup> After the Paris attacks, the military action increased and in the second part of January the Defense Minister announced to that the French air-forces bombed an ISIS communication center near Mosul.<sup>1108</sup> Moreover, the French government publicly announced on 24<sup>th</sup> November 2015, that they will not take into consideration the Human Rights Convention while fighting against ISIS.<sup>1109</sup> The French authorities notified the decision to the Secretary General of the European Council, in order to prevent future prosecutions in front of the European Council, in order to prevent future prosecutions in front of the European Court for Human Rights.<sup>1110</sup> The special measures that have been used by the French authorities under the emergency status gave them the authority, for instance, to search the residences of the suspected without a formal request.<sup>1111</sup> However, the Council and the EHCD remarked that the absolute rights could not be derogated, since the Secretary General Thorbjørn Jagland wrote on 25<sup>th</sup> November 2015 that there could be no limit to Article 2, Article 3, Article 4(1) and Article 7.<sup>1112</sup> Later, both the English government of David Cameron,<sup>1113</sup> and the German one of Angela Merkel,<sup>1114</sup> decided to join France in the bombings.

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[france-decide-une-intervention-militaire-aerienne-en-syrie-contre-l-ei\\_4748129\\_823448.html](#). Online Access: 16/01/2016.

<sup>1107</sup> *Ibidem*.

<sup>1108</sup> *La France a bombardé un centre de télécommunications de Daech*, on France Info Online, 14 January 2016, <http://www.franceinfo.fr/actu/monde/article/la-france-bombarde-un-centre-de-telecommunications-de-daech-758401>. Online Access: 16/01/2016.

<sup>1109</sup> G. Supertino, *C'est officiel : la France envisage d'enfreindre les Droits de l'Homme*, on Europe1 Online, 26 November 2015, <http://www.europe1.fr/societe/cest-officiel-la-france-envisage-denfreindre-les-droits-de-lhomme-2626649>. Online Access: 16/01/2016.

<sup>1110</sup> *Ibidem*.

<sup>1111</sup> *Ibidem*.

<sup>1112</sup> T. Jagland, *France informs Secretary General of Article 15 Derogation of the European Convention on Human Rights*, Council of Europe, 25 November 2015, Strasbourg, [http://www.coe.int/it/web/secretary-general/home/-/asset\\_publisher/oURUJmJo9jX9/content/france-informs-secretary-general-of-article-15-derogation-of-the-european-convention-on-human-rights](http://www.coe.int/it/web/secretary-general/home/-/asset_publisher/oURUJmJo9jX9/content/france-informs-secretary-general-of-article-15-derogation-of-the-european-convention-on-human-rights). Online Access: 16/01/2016.

<sup>1113</sup> F. Perraudin, H. Siddique, M. Safi, *Syria airstrikes: Britain launches 'offensive operation' after vote to bomb Isis targets – as it happened*, on The Guardian Online, 3 December 2015, <http://www.theguardian.com/world/live/2015/dec/03/syria-airstrikes-britain-launches-bombing-against-isis-targets-rolling-report>. Online Access: 16/01/2016.

Despite these solutions the situation is degenerating more and more and the number of terrorist attacks are escalating quickly. The military actions are not going to stop the ideology of the Islamic State in the same way that the ejecting behaviors towards migrants and minorities are not going to change the willpower of the terrorists. The European States diverted from a good political and social path that was supposed to implement integration to follow an American strategy concentrated on a massive amount of military power. For instance, the Obama administration increased the use of drones in their contrast to terrorists, since it was thought that in this way they could have spared a huge amount of human lives.<sup>1115</sup> However, even the modern technology could not assure that only the terrorist would be stroke, indeed the amount of collateral damages is really huge.<sup>1116</sup> One major risk in the adoption of this mentality, where the military strikes outnumbers the pacific and diplomatic actions resides precisely in this kind of illusion, that is the politicians convinced themselves to have chosen a perfect option through a rational calculation of the average human costs.<sup>1117</sup> On the contrary, if the politicians would like to consider a powerful implement of women in their societies, and consequently of gender equality, the solution would mostly become a definitive one. It would be possible to reach a new push in counter-terrorism strategies if women could be engaged in all stages of development, implementation and evolution of these policies,<sup>1118</sup> as some English organizations like One Voice are trying to do in accordance with the Brighton City Council to teach to Muslim mothers in particular to raise awareness in their children.<sup>1119</sup>

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<sup>1114</sup> *German Tornado jets to help French against IS in Syria*, on BBC News Online, 26 November 2015, <http://www.bbc.com/news/world-europe-34927170>. Online Access: 16/01/2016.

<sup>1115</sup> D. Runciman, op. cit., p. 51.

<sup>1116</sup> *Ivi*, p. 52.

<sup>1117</sup> *Ibidem*.

<sup>1118</sup> OSCE, *Women and Terrorism*, op. cit., p. 11.

<sup>1119</sup> OneVoice is an international grassroots movement that amplifies the voice of mainstream Israelis and Palestinians, empowering them to propel their elected representatives toward the two-state solution. The Movement works to forge consensus for conflict resolution and build a human infrastructure capable of mobilizing the people toward a negotiated, comprehensive, and permanent agreement between Israel and Palestine that ends the occupation, ensures security and peace for both

The international documents which are related to gender equality and non-discrimination are really numerous,<sup>1120</sup> notwithstanding the underrepresentation of women in politics is still high.<sup>1121</sup> Pospieszna asserted that this situation is related to the fact that women are taken as political objects but not agents,<sup>1122</sup> indeed she wrote that the political parties recruit women only because they have to respect a legal percentage.<sup>1123</sup> Furthermore, when they enter a political faction they are not provided with the right support from the part of their colleagues, since they have no opportunities to exhibit their skills and abilities.<sup>1124</sup> She rightfully observed it should be reasonable to conceive that women in politically, economically and socially advanced countries could have greater opportunities to participate.<sup>1125</sup> In her vision, the disparity between *de jure* law and *de facto* practices should be undo,<sup>1126</sup> to permit the real empowerment of women. So, since women have a great emotional and practical influence both on men and women, the governments should invests in programs which empower their role in the family and in the general society.<sup>1127</sup> The OSCE organization clarified also that gender is a core aspect of security and just for that women should not be exploited to spy on their sensible communities as their rights must not be bargained for security.<sup>1128</sup> Women

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sides, and solves all final-status issues in accordance with International Law and previous bilateral agreements. The 1967 borders form the basis for the establishment of an independent, viable Palestinian state, with permanent borders and any modifications to be agreed upon by both parties. The Movement recognizes that violence by either side will never be a means to end the conflict. <https://www.onevoicemovement.org/mission>.

<sup>1120</sup> Pospieszna, op. cit., p. 7. Vienna Declaration and Program of Action (1993), Declaration on the Elimination of Violence against Women (1993); Beijing Declaration and Platform for Action (1995); European Convention for the Protection of Human Rights and Fundamental Freedoms; Recommendations of the Committee of Ministers of the Council of Europe (1998–2007); EU Framework Strategy for Gender Equality (June 2000); EU Convention on the Political Rights of Women (2009); EU Declaration on Achieving True Gender Equality (2009); and Resolutions and Recommendations of the Congress of Local and Regional Authorities of the Council Europe (2004–2009).

<sup>1121</sup> *Ivi*, p. 9.

<sup>1122</sup> *Ibidem*.

<sup>1123</sup> *Ibidem*.

<sup>1124</sup> *Ibidem*.

<sup>1125</sup> *Ivi*, p. 14.

<sup>1126</sup> *Ivi*, p. 16.

<sup>1127</sup> Hoyle, Bradford, Frenett, op. cit., p. 39.

<sup>1128</sup> OSCE, Women and Terrorism, op. cit., p. 5.

could be good counter-narratives tellers, so they need to be supplied of all that facilities that could help them to empower their critical thinking on order to spread it to others.<sup>1129</sup> In order to achieve that the public authorities should cooperate with key women activists and organizations.<sup>1130</sup> If they are able to dialogue with these activists, they could be able to side their struggle against intolerance, racism, discrimination, street crime and organized crime with resilience to radicalization.<sup>1131</sup> So, the mutual support between state authorities and non-governmental organizations to fight radicalization and terrorism,<sup>1132</sup> since they could help each other to deconstruct the patriarchal interpretations of the gendered roles concentrating their efforts on tolerance and pluralism.<sup>1133</sup> In order to achieve that, the OSCE recommended the promotion of freedom of expression and the sustain to peaceful expression of non-violence, to increase women's awareness encouraging at the same time the sensitization of parents, teachers, social workers, police officers, journalists and judges.<sup>1134</sup> Moreover, they suggested the insertion of more female personnel in counter-terrorism professionals (from decision-makers to law enforcement agencies and the military), though the removal of the obstacles for career advancements,<sup>1135</sup> accompanied by a gender training for all personnel.<sup>1136</sup> Saltman and Smith also call for an improvement in infrastructures and capacity building within radicalization programs to handle people who returns from Syria and Iraq because they feel deceived.<sup>1137</sup> If we want to enhance the prevention part of counter-terrorism programs we should work both with the cohort of who is not at risk of being lured, with individuals showing initial signs of violent extremism and with people who had subscribed to an extremist ideology

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<sup>1129</sup> *Ivi*, p. 7.

<sup>1130</sup> *Ivi*, p. 8.

<sup>1131</sup> *Ibidem*.

<sup>1132</sup> *Ivi*, p. 9.

<sup>1133</sup> *Ibidem*.

<sup>1134</sup> *Ivi*, p. 11.

<sup>1135</sup> *Ibidem*.

<sup>1136</sup> *Ibidem*.

<sup>1137</sup> Saltmam, Smith, op. cit., p. 6.

respecting legal limits.<sup>1138</sup> In this way, the agitator of hate speeches and incitement to violence could be stop earlier.<sup>1139</sup>

According to the ISD the ultimate goal should be to “create a society whereby there is no appeal for violent extremist ideologies based on racial, ethnic, sexual or religious discrimination.”<sup>1140</sup> The best vehicle to reach this goal is through education and the development of critical consumption skills (to furnish the right equipment to judge the content of an information).<sup>1141</sup> There are same international projects that are already trying to marry those discourses with the counter-extremism prevention and these are *Digital Disruption* and *Extreme Dialogue*.<sup>1142</sup> The first one is an online initiative sponsored by the creative agency Bold Creative; on their platform they furnish materials for educators they could use in classroom, with young people aged between 11 and 19, to help them develop their critical and skeptical thinking.<sup>1143</sup> The resources show as series of propaganda techniques and falsified political, commercial and historical facts the students will analyze to fortify their own criticality.<sup>1144</sup> Whereas Extreme Dialogue addresses openly the topics of violent extremism and radicalization. And it has been launched in February 2015 in Canada and it expanded in European countries like Germany, Hungary and the UK.<sup>1145</sup> Similarly to the previous programs it gives online material but its peculiarities resides in the presence of short films telling the personal stories both of former extremists and of their victims.<sup>1146</sup> Also the ISD is developing its own program called One2One, in a pilot phase still, and it will also try to create an interaction between former extremists and young people.<sup>1147</sup>

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<sup>1138</sup> *Ivi*, p. 52.

<sup>1139</sup> *Ibidem*.

<sup>1140</sup> *Ivi*, p. 53.

<sup>1141</sup> *Ibidem*.

<sup>1142</sup> *Ivi*, p. 54.

<sup>1143</sup> *Ibidem*.

<sup>1144</sup> *Ibidem*.

<sup>1145</sup> *Ibidem*.

<sup>1146</sup> *Ibidem*.

<sup>1147</sup> *Ivi*, p. 57.

All these types of projects fall into an international de-radicalization agenda that includes “programs that are generally directed against individuals who have become radical with the aim of reintegrating them into society or at least dissuading them from violence”.<sup>1148</sup> Unfortunately, the Western governments are not effective in presenting a uniform de-radicalization strategy, also in the European nations.<sup>1149</sup> Germany originated hotlines for individuals that wished to exit from Islamist extremist groups and prison rehabilitation programs, but lacks credible former Islamist extremist voices.<sup>1150</sup> Denmark, instead, through the implementation of mentoring schemes and preventive talks,<sup>1151</sup> build the *Aarhus Model* where the policy is rooted on the conception of social inclusion and reintegration, leaving aside legal prosecution.<sup>1152</sup> Indeed, the Danish government did not criminalize all the engagement in combat abroad and refused to confiscate the passports of their citizens who have been to Syria or Iraq,<sup>1153</sup> adopting a sort of flexible and forgiving approach.<sup>1154</sup> Denmark pointed in a more encouraging approach to disengagement than an enforcement on renunciation, arriving to these decision after having taken into consideration the feeling of social exclusion, casual racism and identity confusion that characterize foreign fighters and female migrants.<sup>1155</sup> Unfortunately the program despite its good intentions has proven to be unpopular with the far-rights political parties.<sup>1156</sup>

A particular preventive approach I want to analyze in the details is the English one, since I was personally able to see it working in progress. The English government inspired by the guidelines of the European Union, launched the CONTEST counter-terrorism strategy, which entered into effects

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<sup>1148</sup> *Ivi*, p. 58.

<sup>1149</sup> *Ivi*, p. 59.

<sup>1150</sup> *Ivi*, p. 61.

<sup>1151</sup> *Ibidem*.

<sup>1152</sup> *Ibidem*.

<sup>1153</sup> *Ibidem*.

<sup>1154</sup> *Ibidem*.

<sup>1155</sup> *Ivi*, p. 62.

<sup>1156</sup> *Ibidem*.

in 2001.<sup>1157</sup> The main characteristics that its creators tried to fulfill in writing the paper was to demonstrate the intent of the government to be effective, proportionate to the risks, transparent, flexible to adapt to new terrorist tactics, collaborative within a local, national and international dimension and that they value of money they spend on meaning a progressive reduction of the costs.<sup>1158</sup> This document was envisioned to contrast efficiently terrorism following four workstreams key objectives, similarly to the general outlines given by the European Council, that were: pursue, prevent, protect and prepare.<sup>1159</sup> In order to implement in the right way this strategy, and especially the preventing assets, the UK government thought to directly involve the different jurisdictions on its territory and the local communities. So they prepared a pamphlet that was distributed in every municipality entitled *Channel Duty Guidance. Protecting vulnerable people from being drawn into terrorism. Statutory guidance for Channel panel members and partners of local panels*, updated in 2015. Basically, the aim of the Prevent Strategy is to reduce the threat of terrorism to the nation by stopping people from becoming terrorists or supporting its actions.<sup>1160</sup> This strategy has three specific objectives, that are responding to the ideological challenge of terrorism, preventing people from being lured in terrorist organization and collaborating with sectors and institutions addressing the

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<sup>1157</sup> *Ivi*, p. 64.

<sup>1158</sup> Government of the United Kingdom, CONTEST, *The United Kingdom's Strategy for Countering Terrorism*, published by the Stationary Office (TSO), Norwich, England, July 2011, [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/97995/strategy-contest.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/97995/strategy-contest.pdf), p. 42. Online Access: 10/01/2016.

<sup>1159</sup> *Ivi*, p. 40. "The purpose of *Pursue* is to stop terrorist attacks in this country and against our interests overseas. This means detecting and investigating threats at the earliest possible stage, disrupting terrorist activity before it can endanger the public and, wherever possible, prosecuting those responsible.", p. 46; "*Prevent* will now address radicalisation to all forms of terrorism", p. 59; "The purpose of *Protect* is to strengthen our protection against a terrorist attack in the UK or against our interests overseas and so reduce our vulnerability.", p. 79; "The purpose of our *Prepare* work is to mitigate the impact of a terrorist attack where that attack cannot be stopped. This includes work to bring a terrorist attack to an end and to increase our resilience so we can recover from its aftermath. An effective and efficient response will save lives, reduce harm and aid recovery.", p. 93.

<sup>1160</sup> Government of the United Kingdom, *Channel Duty Guidance. Protecting vulnerable people from being drawn into terrorism. Statutory guidance for Channel panel members and partners of local panels*, published by the Home Office in 2012, updated in March 2015, [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/425189/Channel\\_Duty\\_Guidance\\_April\\_2015.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/425189/Channel_Duty_Guidance_April_2015.pdf), p. 2. Online Access: 10/01/2016.

specific domain where it is easier to radicalize.<sup>1161</sup> The government defines terrorism and extremism as movements that oppose the fundamental British values including democracy, the rule of law, individual liberty, mutual respect, tolerance of different faiths and beliefs.<sup>1162</sup> Channel is described as a program focusing on providing support at an early stage to people who are identified as being vulnerable to being drawn into terrorism,<sup>1163</sup> and it tries to marry a multi-agency approach by identifying the individual at risks, assessing the nature and extent of that risk and furnishing the most appropriate support plan for the person.<sup>1164</sup> Channel wants to ensure that every children and adults from any faith, ethnicity and background could receive the most adequate support to learn the techniques that could help to distance any possible luring.<sup>1165</sup> The success of this kind of project rests on a perfect cooperation and coordination between the police departments of every single municipality and the other panel partners.<sup>1166</sup> Indeed, the authorities have to ensure the creation of a multi-agency panel in their area and their task is to organize the work, listening to the other members and developing support plans for every individual, including health and social services whenever requested.<sup>1167</sup> The inner intent is to place near the formal authorities of the cities (County Councils, City Councils, District Councils, Police etc...) other representatives of the educational domain, the social services, the youth and children services, the NHS, the home office of immigration and the exponents of the social and cultural communities.<sup>1168</sup> The panels are supposed to identify the vulnerable individuals,<sup>1169</sup> and then every single case would be treated accordingly,

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<sup>1161</sup> *Ivi*, p. 3.

<sup>1162</sup> *Ibidem*.

<sup>1163</sup> *Ivi*, p. 5.

<sup>1164</sup> *Ibidem*.

<sup>1165</sup> *Ibidem*.

<sup>1166</sup> *Ibidem*.

<sup>1167</sup> *Ibidem*.

<sup>1168</sup> *Ivi*, p. 7.

<sup>1169</sup> *Ivi*, p. 10. There is no single way to identify the possible sensible targets, since people could have become vulnerable due to peer pressure, influence from other people or the Internet, bullying, anti-

keeping in mind its peculiarities under the principles of necessity, proportionality and lawfulness.<sup>1170</sup> The Channel detects the vulnerability of a human being thanks to three main criteria that are the engagement with a group, cause or ideology, the intent to cause harm and the capability to cause harm.<sup>1171</sup> In the following pages the Guide furnishes a series of voices that could be used to detect a sensible target, and that are numbered as twenty-two factors.<sup>1172</sup> The activities that are proposed to solve the radicalization comprehend mentoring support contact, work on social and life skills, anger management sessions, cognitive/behavioral contact, constructive leisure activities, education skills contacts, career contacts to find a good employment, family support contact, health awareness contact, housing support contact and drugs and alcohol awareness.<sup>1173</sup> The central government has identified the staff of the public sector as a key group, so it has been envisioned a training called Workshop to Raise Awareness of Prevent (WRAP),<sup>1174</sup> together with an e-learning package, where the personnel will learn the effective strategies to

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social behavior, family tensions, race/hate crimes, lack of self-esteem and personal or political grievances.

<sup>1170</sup> *Ivi*, p. 11. In one of the annexes of the Channel Guide, the personnel is reminded the legal framework and the statutory instruments they are supposed to apply and that are: the Data Protection Act (DPA) 1998, the Data Protection (Processing of Sensitive Personal Data) Order 2000, the Human Rights Act (HRA) 1998, the Common Law Duty of Confidentiality, the Crime and Disorder Act 1998, the Common Law Powers, the Local Government Act 1972, the Local Government Act 2000, the National Health Service Act (NHS Act) 2006 and the Health and Social Care Act (HSCA) 2001 and the Offender Management Act (OMA) 2007.

<sup>1171</sup> *Ibidem*. "The criteria are considered separately as experience has shown that it is possible to be engaged without intending to cause harm and that it is possible to intend to cause harm without being particularly engaged. Experience has also shown that it is possible to desist (stop intending to cause harm) without fully disengaging (remaining sympathetic to the cause); though losing sympathy with the cause (disengaging) will invariably result in desistance (loss of intent). The three criteria are assessed by considering 22 factors that can contribute to vulnerability (13 associated with engagement, six that relate to intent and three for capability)."

<sup>1172</sup> Examples of the 22 Factors are: a. spending increasing time in the company of other suspected extremists; b. changing their style of dress or personal appearance to accord with the group; c. day-to-day behaviour becoming increasingly centred around an extremist ideology, group or cause; d. loss of interest in other friends and activities not associated with the extremist ideology, group or cause; e. possession of material or symbols associated with an extremist cause (e.g. the swastika for far right groups); f. attempts to recruit others to the group/cause/ ideology; or g. communications with others that suggest identification with a group/cause/ideology.

<sup>1173</sup> *Ivi*, p. 17.

<sup>1174</sup> *Ivi*, p. 19.

prevent the risks in a non-alarmist way.<sup>1175</sup> I was personally able to live, for a short period of time, in the English reality of the municipality of Brighton & Hove, in the Sussex region, where I could see with my own eyes how these kind of strategies are brought to life. The information I will report in the following lines come from my personal notes, the power point presentation of the police department and the few e-mails I was able to receive while I was conducting my internship experience in a local NGO involved in the project.

I attended at two meetings, the first one was held on 17<sup>th</sup> of August 2015 and the second one on 21<sup>st</sup> of September 2015, engaging the Brighton Sussex Police Department, the City Council and the Social and Cultural Communities that are actually working to enhance the mutual comprehension and integration between the locals and the minorities. The working group was called Brighton & Hove BME Police Engagement Group (PEG) and its aim was to write a draft action plan to permit to low the level of distress in the Community in reference mostly to terrorism, hate crimes and violence against women. After the first meeting six working groups were created and they were the Community Awareness and Cultural Competency team, the Communication team, the BME Mental Health team, the Young Engagement team, the Stop & Search team and the Crime Recording team. The sensible points that were debated concerned the bettering of police behavior in face of the minorities both in a physical and in a linguistic way, in order to decrease violence. The proponents of the Communities suggested to the officers to deconstruct the erroneous perceptions their policemen could have towards the minorities, eradicating the fear of the unknown. The groups also agreed on the fact that it was important to engage with young people, particularly the ones that spend time at the local mosque, through the use of young police officers of the same cultural background. A substantial discussion concentrated on the Stop & Search activity,<sup>1176</sup> since a lot

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<sup>1175</sup> *Ibidem*.

<sup>1176</sup> The Sussex Police Department on its website furnishes a definition of this activity, that is "Stop and Search is a valuable public protection tool, helping to keep those who live and work in Sussex safe from criminal activity. Police officers have the power to stop and search people under a range of legislation,

of misunderstanding with the young part of the population rests on these occasions. The spokespersons of the local communities underlined a lack in communication and in delivering of the correct information and expectations, so the Department envisioned a series of activities to solve the problem furnishing the possibility to the members of the panel to go on patrol with the agents to see what actually happens during these activities to envision a communication program for their groups. A part of the problems start because of the lack of a correct communication, so the presence of a native speaker or an interpreter in the patrols could permit to translate in the correct way the message. They also thought of an open-day of the Police Department to permit to the community to directly question the officers, to make them appear human beings.

#### 4.4 Conclusions

In conclusion, while contrasting terrorism with counter-terrorism initiatives, the States should fulfill their obligations under International Law, the IHL and the human rights law, otherwise they would break the treaties and the international *usus* that have been created in the last century. Unfortunately, the States do not always respect their duties and they could worsen the situation taking unwise military and securitization policies. The bombing of ISIS stronghold in Raqqa is worsening and Saudi Arabia, Bahrein and Sudan are cutting their diplomatic ties with Iran on the bases of the Sunni/Shia conflict that is staying with blood the region,<sup>1177</sup> promising in this way an

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including Section 1 of the Police and Criminal Evidence Act 1984 (PACE). This allows an officer who has reasonable grounds to suspect someone who might be breaking the law to stop and search them or their vehicle to look for stolen or prohibited items." <http://www.sussex.police.uk/policing-in-sussex/the-organisation/equality-and-diversity/equality-analysis/stop-and-search>. Online Access: 11/01/2016.

<sup>1177</sup> I. Black, S. K. Dehghan, M. Mahmood, S. Malik, *Sunni allies join Saudi Arabia in severing diplomatic ties with Iran. Bahrain and Sudan cut ties with Tehran, while the UAE downgrades relations after execution of leading Shia cleric*, on The Guardian Online, 4 January 2016, <http://www.theguardian.com/world/2016/jan/04/sunni-allies-join-saudi-arabia-in-ceasing-diplomatic-ties-with-iran>. Online Access: 16/01/2016.

escalation in incomprehension and violence. On the contrary, diplomacy, dialogue and cooperation should be implemented by the governments contrasting ISIS and terrorism in general, which need to update their strategies on the major changes the Islamic State did in its contemporary evolution. Indeed, it is building its own statehood apparently on solid grounds, and the Western powers should put into consideration their errors and implement peaceful and integration policies. The above-mentioned counter-terrorism projects stands side by side with the empowerment of equality and women's achievement and, together with appropriate counter-narratives they could permit to soften the tensions that are arousing in Western countries without eliminating softer security measure.

## 5.

### Conclusions

The democratic authorities need to defeat the terrorist leadership  
At the political level by showing that the government is capable of  
responding imaginatively to the legitimate demands and inspirations  
of the very social groups terrorists seek to mobilize.

Paul Wilkinson, *Terrorism versus Democracy*.

All along my dissertation I tried to prove through the help of the experts of different domains, that the contemporary terrorist evaluation embodied by the Islamic State is based not only on the intrinsic abilities developed by the terrorists to contrast competently the moves of the exponents of the Coalition, but also on a series of erroneous behaviors, policies and strategies the Western powers continues to rely on. Indeed, this ten-year War on Terror remained open in time, geography and resources far too long,<sup>1178</sup> because of the intention of the Major World Powers, the United States above all, to blur the lines between terrorism and armed conflict as long as between securitization and respect for human rights. Cronin reported a phrase used by Thucydides in occasion of the Peloponnesian War, stating that "it is a common mistake in going to war to begin at the wrong end, to act first and wait for disaster to discuss the matter".<sup>1179</sup> Considering the vengeful attitude the United States showed after the 9/11 events, it is impossible to do not consider this expression as extremely contemporary. The greatest nation of the current world order felt authorized to overlook the international treaties and conventions signed under the supervision of the United Nations, to take their revenge against the Islamic

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<sup>1178</sup> Cronin, *The 'War on Terrorism'*, op.cit., p. 3.

<sup>1179</sup> *Ivi*, p. 4.

Terrorism. Acting in this reckless way they perpetuated the patriarchal attitude the Western society inherited from the Colonial Age, where the attainment of Western interests was considered as the essential final objective, to which any cruelty was seen as inevitable and justifiable.<sup>1180</sup> This eternal supremacy of the dominant over the “unpeople”,<sup>1181</sup> on the other, produced over the centuries a sedimentation of a hierarchical order which looked down to women and minorities. Both the last two categories have been underestimated and mistreated and when they try to conquest a space for themselves does not simply tolerate to be discussed, so during the years a lot of legal barriers were established to assure the major powers a certain degree of impunity,<sup>1182</sup> on the contrary the feeblest nations are always disregarded and objectified. One of the problems in the public construction of the imaginary linked to a particular population involves the means of communication. The Western public is indeed convinced of the fact that our media embody the democratic values in the best way, so we do not conceive that some of our newspapers or newscasts could report the news in an uncomplete way or with a strong censure on the presentation of some aspects.<sup>1183</sup>

Borrowing the title of the book of Professor Noam Chomsky, so there was an alternative to the WoT? If the crimes against humanity that were pledged against Bin Laden and al-Qaeda after the 9/11 were approached as crimes with the use of an international operation to apprehend the suspects to bring them to justice in front of a tribunal,<sup>1184</sup> maybe today ISIS would have not reached such power. The ruthlessness used against the alleged terrorists, through the use of torturing methods, had the counter-effect to strengthen the Pan-Islamic identity the Muslim Brotherhood started to build in the 1940s and ISIS finished to

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<sup>1180</sup> N. Chomsky, A. Vltček. *On Western Terrorism. From Hiroshima to Drone Warfare*, First Published 2013, Pluto Press, London, 2013, p. 1.

<sup>1181</sup> *Ivi*, p. 4.

<sup>1182</sup> *Ivi*, p. 27.

<sup>1183</sup> *Ivi*, p. 32.

<sup>1184</sup> N. Chomsky, *9/11 Was There an Alternative*, Upd Exp An edition, Seven Stories Press, Open Media Books, 2011, p. 22.

implement today. The contrast that was originated fueled this ideological war that has now assumed the appearance of real clash between civilizations, as Huntington posed it. The plans to counter-terrorism that in these last fifteen years were almost lead by the United States arrived to suffer from confusion and attrition permitting the means to become ends, tactics to become strategies, the search for a perfect peace replaced reality and the boundaries were blurred.<sup>1185</sup> Terrorism as evolved, since the Islamic State has achieved a status of proto-state, but the counter-terrorism measures are backing, as the recent bombings of Syria are demonstrating. The contemporary policy makers are now facing a new weapons proliferation danger, married to deteriorating health conditions in the warzones,<sup>1186</sup> the improvement of transnational criminal networks which ally with terrorists and a global economic instability.<sup>1187</sup> President Obama expanded the CIA's drones program and the role of special operations to confine the violence to a limited area to diminish larger military and civilians high-casualties.<sup>1188</sup> However, this strategy is not working, since it permits the luring from the part of the terrorist recruiters of a huger number of fighters. New definitions of the terrorist threats, as the one of the NIT, and new strategies, as the one of the offensive containment, are being proposed by scholars, but the major world powers failed in taking them into considerations. If we speak from a strategical point of view, instead of implementing the violent military responses to terrorists it should be better to implement the intelligence gathering,<sup>1189</sup> in the respect of the human rights tradition. If there is no respect for the general law all situations could be an excuse that could be used to invoke a particular state of exceptions.<sup>1190</sup> Moreover, as the Nazi experience I have reported should teach, to dehumanize a certain part of the population or

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<sup>1185</sup> Cronin, *The War on Terrorism*, op. cit., p. 6.

<sup>1186</sup> D. Melvin, N. P. Walsh, T. Hume, *Starvation in Syria 'a war crime,' U.N. chief says*, on the CNN online, 16 January 2016, <http://edition.cnn.com/2016/01/15/middleeast/syria-madaya-starvation/>. Online Access: 16/01/2016.

<sup>1187</sup> Cronin, *The War on Terrorism*, op. cit., p. 10.

<sup>1188</sup> *Ivi*, p. 11.

<sup>1189</sup> *Ivi*, p. 13.

<sup>1190</sup> *Ivi*, p. 20.

even an entire conflict, could lead to dangerous results. The uncertainty derived from the liquidity of the contemporary world could not be understood and surpassed with the identification within a radicalized group, both Western and Eastern conceived, that rests on the idea of the exclusion of the Other. The contemporary man should not shun the variety, but instead he, or she, should learn how to embrace it while founding the right dimension of its individuality. These tasks could be accomplished with a right collaboration between the public domain and the private one and the best way to achieve it is thought to be the implementation of the education. This should occur both in the Western and in the Eastern society, which should learn how to collaborate together to implement the integration policies through diplomacy and dialogue.

The contemporary world should discover another time the real essence of politics and civil responsibility. Runciman asserted that when peace becomes the norm of the majority of people it is easy to believe that politics is not involved in everyday life.<sup>1191</sup> The stability could produce disengagement,<sup>1192</sup> so the citizens perceive that they do not have control anymore on the political behavior. The States and the international community should rebuild the political conception both in general and also referring to terrorism. Moreover, the importance of the United Nations should be remembered and its role should become really effective, since the UN has the moral authority and the legitimacy to influence the MS, the ability to dissuade or discourage certain behaviors and the possibility to set its own moral code.<sup>1193</sup> Paul Wilkinson, Emeritus Professor of International Relations and Chairman of the Advisory Board of the Centre for the Study of Terrorism and Political Violence (CSTPV) at the University of St Andrews, recalled the fact that in the past the control of political violence in liberal and social democratic governments was due to the introduction of enlightened political and socio-economic reforms and

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<sup>1191</sup> Runciman, *op. cit.*, p. 56.

<sup>1192</sup> *Ivi*, p. 52.

<sup>1193</sup> P. Wilkinson, *Terrorism versus Democracy. The Liberal State Response*, Political Violence, 3<sup>rd</sup> edition, Routledge, London, 2011, p. 174.

ameliorative measures.<sup>1194</sup> Then, he stated that for an effective peace process compatible with democratic principles, there would be needed a sufficient political will from the parties in conflict to find a peaceful solution, both individual leaders and external mediators could be invaluable to transmit patience and a spirit of compromise and adequate security safeguards.<sup>1195</sup> Accordingly, over-reaction and general repression used to contrast terrorism would be more disruptive than terrorism in itself,<sup>1196</sup> as it would be an underreaction that could leave space for anarchy and chaos to open a breach in the system.<sup>1197</sup> A good strategy should balance between these two attitudes while acting within the law to reassert the democratic legitimacy and public confidence.<sup>1198</sup> This ideological war could be finished only implementing the intelligence and assuring that emergency laws are temporary.<sup>1199</sup> Law enforcement and criminal justice are the only sensible ways of dealing with dangerous fanatical groups.<sup>1200</sup> However, terrorism could defeat the legislation if there is a lack of political will on the part of the legitimate governments, cowardice of the judges, professional incompetence, negligence or corruption,<sup>1201</sup> so a legal system could operate virtuously only if the people who operate in it behave in the respect of the law.<sup>1202</sup> So, all anti-terrorism legislation should be implemented under the control of the civil authorities and be held democratically accountable,<sup>1203</sup> the governments and the security forces should be fixed on limited periods which do not surpass the year.<sup>1204</sup>

In conclusion, a good modern counter-terrorism policy should resort to education, diplomacy, integration and mutual cooperation to permit a long-

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<sup>1194</sup> *Ivi*, p. 65.

<sup>1195</sup> *Ivi*, p. 73-74.

<sup>1196</sup> *Ivi*, p. 75.

<sup>1197</sup> *Ibidem*.

<sup>1198</sup> *Ibidem*.

<sup>1199</sup> *Ivi*, p. 76.

<sup>1200</sup> *Ivi*, p. 83.

<sup>1201</sup> *Ivi*, p. 94.

<sup>1202</sup> *Ibidem*.

<sup>1203</sup> *Ivi*, p. 96.

<sup>1204</sup> *Ibidem*.

standing solution for the year to come which would also permit the surpassing of the patriarchal and hierarchical order led by discrimination, military supremacy and chaos.

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