

A Constitutional Approach to Contemporary Political Violence

Jan-Erik Lane*

10 Charles Humbert, CH - 1205 Geneva, Switzerland

Abstract

The occurrence of political violence today stems much from intra-social conflicts, as e.g. rebels and jihadists challenge peace and political stability in several countries. When rebels and jihadists join forces or in addition fight each other, anarchy is likely to occur. Countries that have fallen into the Hobbesian predicament are to be found in Central Africa, the Middle East as well as Central Asia and South East Asia. The result is huge losses in human lives, enormous casualties as well as destruction of material resources and assets. The remedy is the compromise between the combatants, i.e. a key pact or constitutional agreement that supports the rule of law. Constitutionalism holds the promise of peace and stability also in a Muslim country, as there is nothing in the "Book of God" that prohibits peace and prosperity - i.e. rationality - in the Muslim civilisation.

Keywords: Political conflicts; Rebel insurgency; Muslim terrorism; Rational and diffusion models of conflict, Constitutional norms; Logic of bargaining; Consensus pacts; Rule of law; Zermelo time points; Averroes

Introduction

It is true that the countries of the world have become much more interdependent during the last three decades, posing challenges to successful co-operation. The globalisation of the planet offers not only opportunities for collaboration among the peoples of the world [1]. It also comprises a new pattern of conflicts, more or less violent, where the new terrorism plays a major role and the distinction between inter-state and intra-state conflict is blurred [2]. Many countries are now plagued by civil war or sharp internal conflicts that result in deaths from domestic political violence. Much of the daily reporting on the global TV news channels deals with human tragedies that unfold incessantly in some Saharan or Sub-Saharan countries, in parts of the Arab world, in regions of Central Asia and South Asia as well as in a few countries in South East Asia. The International Community is active sending many thousands of peace keepers to some of these unfortunate countries. But the political violence there just keeps going on or sometimes even increases.

Anarchic societies are sometimes called "failed states", meaning that these countries do not really have a government with authority, i.e. a political system with "an authoritative allocation of values" [3]. To use the terminology of Rawls, they differ from both the "well-ordered societies" and the "authoritarian states" in that they are basically in a so-called "Hobbesian" state of nature, where government is lacking [4,5]. What can be done to counter-act this deplorable situation in these countries?

Now, the capacity of the state to persistently issue commands and receive obedience, regulating violence and controlling the territory, is, I wish to argue, much dependent upon the existence of a legitimate constitution that meets with acceptance by major social groups. This is the core tenet in the theory of *constitutionalism*, from the 20th century [6,7]. The aim of this paper is to spell out what the theory of constitutionalism, with its many distinctions and ramifications [8], would entail for stemming conflict in countries with persistent political violence.

According to the yearly Heidelberg Conflict Barometers 1), there has been a steady increase in the number of yearly political conflicts since 1945. The increase from one year to another reflects that many

conflicts continue year in and year out, but a few new conflicts appear from time to time. It is not that conflicts do never disappear. They do. But the life span of a conflict may cover decades. There occurred some 100 political conflicts every year in the first decade of the 21st century, where people lost their lives. The number of *intra-state conflicts* is far more numerous than the *inter-state* ones. The interstate conflicts have gone down quite significantly after the fall of the Iron Curtain. But the number of intra-state conflicts has increased on the other hand. Intra-state conflicts have on average a higher level of intensity of violence than the inter-state ones.

On the Nature of Conflicts and Political Violence

Let me start by assuming boldly that the root cause of a conflict, whether state or societal, is the division of something valuable, i.e. there occur opposing views as to its division. Valuable entities that become the target of the opposing claims are *real* ones: territory, land, people, merchandise, trade, resources, money, assets, etc. When it comes to the distribution of these valuable things or entities, people may either partition them peacefully by means of a scheme of cooperation, or they may struggle and fight over their division. The logic of bargaining applies: the more quick the warring parties arrive at a division, the more there is to divide, since destruction is minimized [9].

In conflicts, expectations and beliefs constitute the key elements besides wants. This is what makes bargaining or negotiation so relevant to the resolution of conflicting issues. In relation to political conflicts, constitutional bargaining can mean a difference, halting losses in life and capital. When groups claim that they fight in the "Name of God", it is merely a belief, viz. actually a completely unfounded one. But the outcome of sectarian clashes are most real for those concerned in the form of meaningless destruction of real assets, human and material ones.

*Corresponding author: Jan-Erik Lane, 10 Charles Humbert, CH - 1205 Geneva, Switzerland, Tel: 4122 379 8384; E-mail: janeriklane34@googlemail.com

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A conflict has a starting-point, which when it comes to the use of violence is most of the time easy to date. Prior to the use of force, a conflict is born out of a dispute over real things, like people or peoples' minds and their assets. Typical of a conflict process is the escalation, from peaceful confrontation over violent clashes to massive deployment of force, as with a civil war. If human conflict would be about metaphysical or simply imaginable entities, then there would be no need for employing force. When men and women rebel, they have expectations of real change [10].

According to two ideal-type models of conflict, rational conflicts and diffusion ones, the trigger of a conflict may vary, from the deliberate plan of a political elite to initiate a dispute or a violent confrontation, to the sudden outburst of a mob clash, driven by the diffusion of mere rumours, or the tit-for-tat revenge in ethnic or religious struggle.

A conflict is in game theory analysed as a *zero-sum* interaction between two or more actors. The zero-sum games received their classical analysis in von Neumann's and Morgenstern [11,12], with refinements added later by Harsanyi and Selten in the 1960s and 1970s [13,14]. Following these theoretical insights, one may ask whether political conflicts tend to adhere to the logic of rational or irrational behaviour. Attempting to reply basic questions about conflicts, one is driven to consult various theories of conflict that have emerged in the social science (Jeong, 2008). Although conflict has not attached the same interest as cooperation, at least not violent conflict, there is a body of theoretical insights to draw upon when analysing conflicts today. However, political conflicts are special with a logic of their own.

In certain zero-sum games the actors are states, i.e. the governments or armies of a country. In other zero-sum games the players are social groups, communities or political parties. Zero-sum games may involve only non-violent actions or only violent ones, or both. The outcomes of zero-sum games consist of real advantages and disadvantages for the players, including losses in lives and property.

Time path of conflicts: "Zermelo time points"

The evolutionary path of a conflict can be modelled as a game tree over time with finite decision nodes constituting the choice alternatives of the players at each point in time. The rationality of the parties is given by means of backward induction, finding the Zermelo point, i.e. the point of no return. As the conflict evolves, one can only speak of probabilities of different outcomes.

All conflicts have a start and an ending. They are finite games of a zero-sum nature. Some conflicts last longer than others. During the time span of a conflict the position of the conflicting parties may change: dominance, stalemate and underdog. Conflicts disappear when one party can force a decisive outcome or the conflicting parties decide on a mutual cessation of activities. What I will name the "Zermelo point of the game" is the time or decision node from which the outcome is strictly determined.

Zermelo showed early in the 20th century that zero-sum games with many decision nodes may be open games, meaning there is no strategy that will lead to a specific outcome. Thus, chess for instance has a Selten sub-game Nash at the ending of the game, unless White or Black makes an outright blunder. Many of the major conflicts today are Zermelo open games, such as Syria, Palestine, Iraq, Kashmir and Taiwan, meaning they can end either way. The strategy of negotiation is relevant both before and after the Zermelo point.

Ex ante the Zermelo point: When the conflicting groups cannot

predict the outcome, as in a stalemate, negotiation is the best strategy in order to save as much as possible in human lives and capital assets. The shorter the conflict endures, the more there is to split in a negotiated deal. Example: the present conflict between Kiev and Moscow.

Ex post the Zermelo point: When it is possible to foresee the likely outcome of the conflict, then the losing party has all interests in going into bargaining, in order to hold down the coming losses.

Example: with the final outcome predictable, the Tamil Tigers should have settled the Sri Lankan conflict, accepting compromise 2005. A final victory had little probability, especially if the Tamil Tigers had fully recognized the Sinhalese ambitions and their harsh determination.

Typical of very few conflicts - Palestine-Israel, Kashmir - is that the time horizon appears infinite, but this is a chimera. It is just the case that these conflicts are propelled by conflicting parties with immense resources and involve extremely high stakes. One day they will be settled somehow, although the outcome is unpredictable.

One may ask about several of the conflicts today: Do they have a Zermelo point, meaning that from a certain point in time the outcome is predictable? Looking at the path of a conflict that has ended, one may find the Zermelo point. But looking ahead predicting the outcome of a conflict it is often difficult to speak of a future Zermelo point. After all, the parties may fail to find the best alternatives at each node making the wrong moves.

In conflicts, parties may have ambitions that are not achievable and yet they persist in pursuing them. In such conflicts, a long trail of defeats does not diminish the zest of pursuing the conflict. Conducting the conflict becomes a goal in itself, whatever the results. Some secession struggles in India have this irrational imprint.

When conflicts take on the features of the diffusion model, then one cannot speak of a development path with a possible Zermelo point. They lack strategy completely. In some countries communitarian struggle is more in accordance with the logic of the diffusion model than with the rational model.

The remedy in relation to the widespread occurrence of political violence is bargaining. Only negotiation among the conflicting parties can pave the way to an agreement about the basic conditions for the exercise of political authority, which would be conducive to peace and political stability. Such a pact would have constitutional ramifications.

Political violence: "Von Oben" Oder "Von Unten"

The conventional approach to political violence is to found in theories of war [15]. States or governments make rational deliberations before going to war, modelled as a zero sum game with simultaneous moves. This is the perspective from above (*von oben*), where the combatants on the ground follow orders, or at least try so, from the top. There is no guarantee of rational outcomes, according to game theory, as the military leaders may not have complete information, make mistakes or gamble on too risky prospects, all resulting in unintended disasters, such like La Grande Arme [16,17] and the Iraq Invasion [18].

The rational decision model is used by so-called *realists* in international politics to explain state confrontations - the perspective from above ("*von oben*") [19,20]. The stylised model of war in elementary game theory is based upon the assumption of complete information [21]. Yet, the conduct of military conflicts is seldom rational in the sense that the expected objectives are accomplished

by the devised means. Information is very often either incomplete or asymmetric.

State or military leaders tend to make serious mistakes, according to the rational model, misconceiving goals or calculating the probabilities of alternatives and outcomes wrongly. This fact is of course a major argument for the international regulation of state conflicts through bargaining or arbitration. Why not attempt to prevent governments from engaging in foolishness or extremely risky adventures?

Here, we look at political violence from the perspective of the individual combatant, or the perpetrator of violent acts against other combatants or civilians - the perspective "*von unten*" (from below). Now, what is driving people, the single individuals, engaging in political violence today: in drug wars (Mexico, Colombia, Golden Triangle), rebels (Central Africa, Middle East, Central Asia, South East Asia), djihadists (Muslim countries) as well as spontaneous mass mobilisations (Egypt, Ukraine, Thailand, Bangladesh)?

Two models of violent behaviour - the rational choice model and the diffusion model - are relevant in the perspective from below. Political violence in the 21st century has resulted in a huge number of deaths and wounded people. Are these human sacrifices really meaningful: that is to say, "meaningful" from the point of view of the combatants? In these interactions of political violence, there are huge losses, human and material. The constitutional perspective could offer a remedy, outlining a road to peace and political stability, based upon bargaining and an institutional pact or deal?

One finds the constitutional approach to peace and political stability in both domestic constitutional theory and in public international law. Thus, one may draw upon a wide set of principles or norms when suggesting a remedy to several of the conflicts today, involving the occurrence of threat of political violence. In the early 20th century, attempts have been made by legal scholars to unite national constitutional theory with public international law into a global constitutional theory [22-24], which have met with sharp resistance [25-27].

Relevance of Constitution Law

The basic building block of a constitution is the norm, stating what is allowed and prohibited in state operations and societal activities. Norms of obligation say what is not allowed to take place, i.e. the opposite action must be performed. Constitutions do not allow for political violence or massive deaths from domestic protests or insurgency. Thus, anarchic countries should put a huge emphasis upon arriving at a body of constitutional law and try hard to enforce it by respect for a valid set of public norms. It requires a considerable amount of consensus among political elites.

Constitutional norms enable a government to run a country in peace and social stability. They enhance predictability of state operations and promote accountability of politicians and public servants to the general public. The two crucial prerequisites about constitutional norms include:

- a. They must endorse the Rule of Law;
- b. They have to meet with respect, observation and enforcement by major social groups and key political elites.

Constitutional norms are easily separated from other kinds of norms - administrative, contractual, tort etc. Most often they are collected in a single document, i.e. the country constitution. Almost all states have

such a constitutional document with a few countries having only a few special state laws, corresponding basically to constitutional norms. Whereas some countries rely much upon case law for constitutional developments, most other countries favour codification.

Many of the anarchic states have constitutions, but they are not respected, not observed in behaviour and never enforced. It is not simply a matter of constitutional norms becoming obsolete, which happens also in well-ordered societies. On the contrary, in anarchic countries the entire constitution is typically put out of order, not considered legitimate or valid, at least for a certain period of time. Thus, the constitution enacted is suspended through the declaration of *Martial Law*, using emergency law. The suspension of the constitution signals the crisis of the state and is almost always accompanied by deaths for political violence. Returning to normality is often signalled by the re-enactment of the constitution or the enactment of a new one. Constitutions are the arteries of the state as well as offer the Basic Laws of a society [28].

The ideal-type constitution: Constitutionalism and rule of law

The structure of any and every constitution is actually rather simple, as the logic of a constitution only requires that a few key pieces be put in place. What is problematic on the other hand is to get the constitution accepted as valid by the major groups in society - the unanimity requirement. A constitution has typically the following parts:

- a. Preamble: It outlines the background of the making of the constitution and often contains a wording about the religion(s) in the country;
- b. Rights and duties of citizens and inhabitants;
- c. Structures of central governance: executive, legislative and judicial branches;
- d. Territorial structure of the state: central, regional and local governments;
- e. Rules for changing the constitution, including state of emergency.

In the set of constitutions in the world, there is considerable variation concerning the wording of these five parts, but it really boils down to a rather limited set of constitutional choices. Interestingly, the length of a constitutional document varies incredibly, from the short US constitution to the longish Indian constitution. But the set of choices is narrow [8].

1. Preamble: secular or religious. Several county constitutions indicate the main religion(s) of the country, but it should be underlined that constitutions deal with inner worldly matters, meaning basically secular things. A few countries state that a religion or a religious document is the foundation of the state. This may be a source of serious contention and lead to political confrontation.

2. Rights and duties: All constitutions, even those in authoritarian countries, comprise a list of citizen rights and duties. Sometimes the purpose is simply to have a camouflage constitution, as the list of human rights is not respected or enforced by government or the judiciary. However, in anarchic states where the state is not autonomous in relation to social cleavages and sectarianism, the list of rights and duties is not a faked one, but constitutes a mere hope of what could be possible under peace. Countries may decide for a short

list of negative human rights or a long list of both negative and positive human rights, including perhaps also collective rights. The section on rights and duties constitutes the benchmark for the establishment of Rule of Law, which in addition requires an independent judiciary.

3. *Trias politica*: Besides the autonomy of the system of courts, from the High Court to the Supreme Court, constitutionalism comprises two basic models of government, presidentialism and parliamentarism with the hybrid type of semi-presidentialism. The role of legislatures is different under presidentialism as against parliamentarism, but Parliament may have one or two chambers.

4. Unitarism-federalism: The two chamber system is mostly found among the federal states, i.e. the countries where provinces or regions are organised as states with the federal state. Most countries in the world are unitary, which does not necessarily mean they are much centralised within the power of the central government. The UK for instance is today very decentralised with home rule for Scotland, Wales and Ulster, at least to some extent.

5. *Lex superior*: Constitutional law being the cement of the state can only contribute to political stability and peace when it remains in force for several decades. To promote constitutional longevity, many countries render a special legal status to constitutional norms, providing them with inertia. Thus, constitutional norms may be surrounded with special protection in the form of a procedure that makes it difficult to make quick changes in them. The status of *lex superior* may require special majorities for amendments, time delays for new election of a new legislature for confirming constitutional changes, etc.

The likelihood of political stability is high when a state can institutionalise a set of constitutional norms of the above content. What is crucial is that the constitutions have been enacted with a large majority support as well as that it maintains a significant level of support over time. In troubled countries where the state is hardly operating or where government faces insurgency, the constitution meets with disagreement and outright rejection. The only way to a peaceful society and respect for state authority is to change the constitution or to come to an agreement above a new dispensation.

The Constitutional Stage: Handling a zero sum game

Countries in turmoil like Thailand and the Ukraine and Bangladesh or in civil war like a few African, Arab and Non-Arab Muslim countries can be said to be in a constitutional stage, where the conflicting parties need to talk about a constitutional contract in order to arrive at political stability and peace. The start of the conflict is the end of the legitimacy or validity of the existing constitutional document and the start for the search for a new one. The longer it takes to reach an agreement, the more probable is the occurrence of political violence and death from it.

It would seem that political unrest today has no end: anomie in countries like Central African Republic and Somalia, civil war in Syria and South Sudan as well as unstoppable insurgency in Afghanistan and Iraq besides the turmoil in Bangladesh and Thailand. Yet, it is a mistake to believe that fighting is necessary for arriving at a solution with peace and political stability. Either one of the parties makes the error of overestimating his resources, or both fail to understand the implications of a stalemate. With rational expectation, the conflicting parties would settle at once:

a. *The foolishness of keep fighting*: Around 2005, the Tamil Tigers had the opportunity to settle the civil war in Sri Lanka on reasonable terms, negotiated with the help of the Norwegian government. They

walked away from a solution that would bring peace and regional autonomy, only to be completely crushed some years later.

b. *The stupidity of a prolonged dead-lock*: When the two conflicting parties are both strong enough to persevere, then compromise is the only rational strategy, meaning turning to the making of a constitution with reciprocal concessions. This is the situation in Egypt, Syria and Afghanistan.

Egypt: The recent Egyptian developments are especially disappointing from the rational expectations perspective on conflicts and the constitutional stage. Mubarak ruled for an excessively long time period by means of an emergency state, with multiple bans upon human rights and the freedom of political participation. When he was forced to resign under the Arab Spring, Egypt entered directly into the constitutional stage under a temporary regime covering all kinds of liberties. A new constitution was drafted and free and fair elections were held, bringing the Muslim Brotherhood to power. However, President Morsi ruled in such a way that the reaction to him and the MB including the new constitution was such that the old conflict resurged and military rule was restored. Now, Egypt is again going to have a new constitution with the MB designated as “terrorists”. This will not end the conflict between secular and religious groups in the country.

One may guess that former president Morsi is today somewhat remorseful about his aggressive tactics during his short period in power. He certainly did not engage in the all embracing kind of policy-making that would bridge the cleavages in Egyptian society. On the contrary, his actions fuelled tensions, especially his fundamentalist stance.

Syria: The situation in Syria is completely out of hand, resulting in incredible human sufferings. Since no side is strong enough to prevail, efforts at cease fire would be rational for both the regime and the Free Syrian Army. The longer this meaningless war lingers on, the greater the opportunity for a third party to enter, the djihadists.

The Syrian civil war has a deep background in both colonial and independent Syria with the atrocities at Homs during Al-Assad’s regime. In a sense, the country has been in a constitutional setting for almost the entire 20th century, but the conflicts have flared up only occasionally until now when hell is loose millions of people fleeing the country and massive capital assets are destroyed. With rational expectation, both sides to this conflict, the Shia minority - Alawites, and the Sunni majority would gain a lot by stopping the senseless violence.

Iraq and Afghanistan: one may state generally that political violence is driven much by the djihadists. They have a religious constitution in mind, like in Iran although they are Sunni Salafists. Somalia has been completely destroyed by the djihadists, seeking one final solution.

Libya: Libya is likewise in the constitutional stage, but the country is so torn by anomie and regional conflicts that no new constitution is forthcoming.

Tunisia: On the other hand, Tunisia seems to be able to arrive at enough inclusiveness to have a new constitution according to the model outline above, involving rule of law and religious tolerance.

Respecting a new constitution

Countries may succeed in enacting a constitution but fail to enforce it without political violence. This is the situation in the Ukraine, Thailand and Bangladesh. One is reminded of the key distinction between the constitution as a set of documents and the real constitutions, i.e. how government operates in practice.

Due to the global respect for democratic values, especially human rights, new constitutions are made on the model of a constitutional state, outlined above. But governments or opposition groups may be tempted to employ political violence tactics, paying lip service to the idea of legality and due process of law.

i) The Ukraine: Politicization of the judiciary

Kiev has become the centre of the basic conflict in the Ukraine between Western and Eastern Ukraine. It reflects the history of the country, between a Western orientation and a Russian connection. And it has strong constitutional implications, as the former Communist Party in power influenced the judiciary to hold down the liberal opposition. Laws with restrictions on political protests were also a tactic by the government in this seeming unending conflict with very negative consequences for the country and its weak economy. The incarceration of Timoshenko was a major mistake, violating the rule of law.

ii) Bangladesh: The *hartal*

Political opposition is also in Bangladesh the source of much political violence, with numerous deaths. Without political opposition, democracy cannot work. But the constitutional guarantee for free speech, the right of assembly and the creation of political parties, trade unions and other associations in civil society is supposed to support peaceful opposition. The so-called *Hartal* does not work this way, but employs the strike to gather maximum force, including deaths from political violence.

iii) Thailand: Massive street opposition

The form of political opposition in Thai politics is likewise not conducive to peace. Since Thailand is a developed country with an advanced economy, it is all the more surprising that political demonstrations are not peaceful, but like the Ukraine and Bangladesh involves mass mobilisation with political violence as the result.

Political opposition can be done effectively under peaceful forms, according to methods outlined in the constitution. Besides opposition in the legislature, countries may wish to introduce the referendum, which has proven to be a both peaceful and efficient instrument for changing bills or reversing government decisions.

Social protest, as a major form of political confrontation and expression of conflicting demands, knows many peaceful methods. Strikes and lockout are the main types of industrial disputes, which may be accompanied by violence when large scale or long duration. Yet, when used for matters relating to working conditions and salary, they need not have any political purpose or lead to political violence.

Social movements: Satyagraha

The constitutional focus is to be found with social movements that protest for rights of various kinds: human, environmental, group, etc. It is true that a few social movements have not hesitated to engage in the killing of opponents or innocents (Della Porta), but it is typical of the social movement today to confess themselves to the principle of non-violence, at least as long as they are not threatened by violent clampdowns.

The non-violent protest method of Gandhi - *Satyagraha* - was explicitly political in its intent. It tried not only to avoid sacrifices in deaths from domestic struggle, but it also cherished the idea that non-violent means of social struggle were somehow nobler than violent

ones, as it tended to uplift the spirit of those protesting towards altruistic objectives.

The institutionalisation of conflict behaviour is a major concern for the constitutional regime adhering to rule of law. It has two sides. First, the authorities will have to accept that they are restrained when facing protests as well as clamping down upon protest groups. Second, social movements will be required to respect certain accepted modes of protesting. What made the Gandhi and Congress Party strategy so effective was the strict adherence of the British to rule of law, also within Indian government and administration.

Social movements state with few exceptions such as extremist ones on the right or left that they wish to achieve their objectives peacefully. However, they sometimes turn to physical violence, either provoked by the opponent or out of despair when being unsuccessful. It should be pointed out that social movements of different kinds. Thus, the Muslim Brotherhood is often designated a social movement, but it is an open question whether it is more similar to terrorist groups like the Italian Red Brigades and German Rote Arm fraction, at least in some countries.

The Perpetrators of Political Violence: Motivation

Political violence today is mainly driven by three groups: jihadists, rebels and drug traffickers. To understand the logic of their behaviour, one may employ the rational choice model, according to which:

1. Benefits > Costs, for the individual i.
2. The equation (1) works well for understanding the logic of drug wars in for instance Mexico and Colombia. As long as the probability of not getting caught or killed is low, the drug gangster will continue with his operation, as the benefits for him are larger than being for instance unemployed.

However, in relation to violent activities of jihadists and rebels the explanation may require not only the rational choice model (1) but also another model, the diffusion model. A diffusion model has two equations involving crucially time (t):

3. $dP/dt = P/R$,
4. $R = f(t)$.

Once the perpetrators (P) - rebels and jihadists - start engaging in acts of political violence, their number will grow until the number of restrainers (R) - inside or outside forces - has caught up. Thus, political violence will spread quickly in the beginning and later subside, if the set of restrainers are forthcoming.

Some rebels may be jihadists and vice versa (Mali), but in principle they come from different groups. The rebels have mundane goals of crushing the government and law and order, often for their own sake, permitting them to engage in looting: Liberia-Sierra Leone, Kongo and Uganda. The jihadists in general operate on the basis of a religious motivation, sanctioning violence in the name of Allah - the martyr image.

The basic concept in a diffusion process of political violence is that of contagion, as the spreading of acts of violence starts somehow and then spreads in ever bigger waves. Sudden ethnic conflicts adhere often to the diffusion model. In these conflicts, there tends to be little of strategy. Besides the infliction of harm and death, there is no reasonable objective that could be achieved. It is almost as if the means

or instruments - damage infliction and killing - are the reason of the political violence: The Great Lakes' conflicts, Kenya and South Sudan.

Communal or sectarian conflict has a logic different from that of rational conflicts with clear goals and calculable means. Often they break out suddenly and generate its energy from the need for tit-for-tat revenge. Communal violence like ethnic or religious conflicts tend to linger on almost indefinitely, and may trigger the terrible threat of a genocide. Most often, there is no clear winner, but the sufferings among civilians may be unimaginable - take Central African Republic or Nigeria - religion - South Sudan - ethnicity - as examples recently.

The sharp separation between a rational conflict between states or armies with clear means and ends on the one hand and the irrational diffusion of communal violence, targeting innocents, should not be taken to imply that all forms of political violence of either the one or the other type. Today many conflicts are mixtures of the rational choice model and the diffusion model. For instance, rebels may ruthlessly stimulate the diffusion of conflict among communities - tribes or sects - in the hope of being able to control such violent processes for their own ends. It may even happen that outside governments support the diffusion of ethnic or religious conflicts in other countries.

One may enquire into the relevance of the rational choice model for the rebel: Why taking up arms against government? It is questionable whether rebel activities in general satisfy the equation:

1. $B > C$, for the individual *i*.

The risk of getting killed, either by government soldiers or other rebels, is substantial in both Africa and the Middle East, especially Syria. However, the participation constraint for a rebel may be almost zero, if he is unemployed and without prospects. When life is worth little, then death may not come so expensively.

The rebel feeds himself by means of the rebel activities, which consist basically of looting, especially in Africa when the rebels are not jihadists. The strategy of looting may in the short run bring substantial resources of all kinds, but it comes with the risk of getting killed or captured. For the civil population, the rebels constitute a terrible force, as looting covers not only food and sex but also senseless aggressiveness against all kinds of civilians.

ISLAM: The New Clash within a Civilisation

Today the level of political violence in the Muslim civilisation has reached such a scale that it sets this civilisation apart from the other ones on the globe. Why is this so? This must be a most relevant question for all Muslims, as the occurrence of political violence on a daily basis has the most dismal consequences for the Muslim populations in Syria, Iraq, Egypt, Libya, Mali, Afghanistan, and Pakistan. Since the invasion of Iraq by the US and the UK, the Muslim world has experience an enormous increase in deaths from domestic political violence. In several countries, political violence has surged with enormous suffering for the civilian population.

Political violence in Muslim countries has a variety of sources, making for a complex conflict pattern:

- a. The historical cleavage between Sunnis and Shia;
- b. The rise of Islamic fundamentalism in the 20th century;
- c. The growing tension between secularists and Salafists;
- d. The creation of a theocracy in Iran in 1980;

- e. The emergence of the Talibans in Afghanistan and Pakistan;
- f. The rise of Shia extremism: Hezbollah;
- g. The never ending conflict over the territory of Israel;
- h. The democratic deficit in the Muslim civilisation and especially the Arab world;
- i. The anxiety over a general developmental backwardness in several Moslem countries.

What is truly stunning about political violence is several Muslim countries is the enormous ferocity, resulting in Muslims killing Muslims and other in the Middle East on a truly big scale. It seems that nothing but death counts when opponents take on each other in Syria, Iraq, Egypt, Libya, Afghanistan and Pakistan. The sufferings of the civilian population are such that one must ask: From where comes this unrelenting violence resulting in so many tragedies: men, women, children, families, etc.?

The recent surge in terrorist activities has accompanied the rising tensions and growing violence in the Middle East and other Moslem countries. Car bombs, suicide bombings and roadside bombs kill innocents almost every day and indiscriminate attacks by the army take many innocent lives. The destruction of people and property is without precedent in the Moslem world today. Why?

It may be pointed out that the political violence in the Muslim civilisation does not basically stem from wars of independence against Western colonial powers. Now it is more a question of internal turbulences, arising from religious and ethnic fragmentation, although the US led invasion of Iraq in 2003 was reminiscent of Western attempts to penetrate the Middle East in the 19th and 20th centuries. To resolve these conflicts in Moslem countries, the only avenue is the constitutional stage, deciding peacefully about the basic principles of state and society.

No action in international relations since 1945 has had more dire consequences for civilians than the US led invasion of Iraq. The number of casualties runs into the hundreds of thousands, yet the invasion was illegal from the point of view of public international law. It led to a sharp increase in the scourge of the Muslim civilisation, the jihadists. How is the emergence of Al Qaeda and Islamic terrorism to be understood from the point of view of models of conflict behaviour?

Looking first at the phenomenon of "Martyr" from the diffusion model of conflict:

$$(2) \frac{dP}{dt} = P/R,$$

one understands the increase in the supply of perpetrators *P* through the spread of radical Islam in the latter half of the 20th century, especially in Koranic institutions, like e.g. the *Madradas*. Again where life offers little prospect, the dream of becoming a "Martyr" may appear attractive for young men and women, if they adhere to the ideas of Qutb and Faraj or Mawdudi.

Also one understands the difficulty in putting in restrictions on the spread of jihadists, the restraining *R* coming from either inside the country or outside it. The American efforts to halt the spread of Islamic terrorists were only partially successful, with considerable costs to the Americans and an enormous cost to the Iraqi population. Al Qaeda and other terrorists groups seem to today stronger than ever, in Iraq, Syria and Afghanistan. They also operate in Russia, Pakistan and Libya. The UN as a restrainer *R* of rebel activities has also met with mitigated success, the mandates often being too narrow.

One may also look upon Islamic terrorists from the point of view of the rational choice model of political violence. Each and every fighter must of course make a decision whether to go to the front or commit terrorist actions against civilians. Yet, the equation can only be:

(1) $C > B$, for individual i .

The irrationality of Islamic terrorism stems from the fact that the risk of getting killed or damaged for life is high. On the benefit side, there is the dream of becoming a “martyr”, but it is all mere phantasm. Of course, some terrorists survive and may receive mundane or inner-worldly compensation. Whether it is probable that that this inner-worldly compensation could surpass the probability of substantial costs is an open question. However, there is no real outer-worldly compensation. In a universe of 100 billion galaxies, where would the Islamic paradise be located? And how could a God overcome the energy laws of thermodynamics?

Islamic Fundamentalism and Political Violence

Much of the political violence today in Africa, Middle East and Central, South and South East Asia is linked somehow to the turbulence within the Muslim civilisation, with Moslem countries and along the borders of some of these countries to other non-Islamic civilisations. At stake is the unsettled tension within Islam between faith and reason, religion and modernisation, purity in religious manners and economic development. Only a few of the countries within the Muslim civilisation has found a stable solution between these antimonies, mainly the Gulf Monarchies drawing upon their fabulous wealth.

The religious tensions within the Muslim civilization can only be resolved on a long-term basis by the Moslems themselves. What the Western powers can do is to clarify the role of religion in their own societies, but to attempt to stem the new terrorism by invading Muslim countries is bound to fail. It seems obvious that the Iraq and Afghanistan invasions have fuelled the new terrorism without in any way resolving the basic issue at stake: How is Islam to be reconciled with the requirement of modernity or post-modernity in a peaceful manner?

It cannot be emphasized enough that Islamic fundamentalism is a phenomenon of the 20th century. It is not in accordance with main stream developments in Islam since the death of the Prophet. Islam shows an enormous diversity of opinions and harbours a great variety of sects. Only in the 20th century, there has the idea emerged that there is ONE Islam, which must be implemented in state and society - so-called Islamisation. The idea of Islamisation with Mawdudi is nothing but a call for strict uniformity with punishments for any form of divergence - an authoritarian society with a religious state, a totalitarian system in the period of globalisation with its emphasis upon human rights and the rule of law.

This paradox that the Islamic countries have strong political movement with an agenda of political violence as a means to the goal of pursuing the dominance of religion over reason while the rest of the world and its civilisation push ahead with economic development and modernisation based upon science, economics and reason leads to unavoidable conflicts over the program of Islamisation, within Muslim countries and at border areas with other countries [29].

Reason and faith: Averroes’ “Double Truth”

The rise and growing strength of Muslim fundamentalism in an age of globalisation, modern economics and the triumph of the natural sciences is enigmatic. It is widely believed that Islam is somehow

responsible for this global paradox, but it would be a fatal mistake to equate the religion of Islam, one of the three great monotheistic traditions, with unreason.

All the world religions have had to take a stand on the relationship between reason and faith: How to handle any conflict between the two? And all the great religions of the world today have devised a *modus Vivendi* between reason and faith, except Islamic fundamentalism. This is all the more astonishing as Islam was the first of the major religions to work out a tenable solution of how to respect faith while fully employing the faculty of reason and observation. Before Christianity came up with various solutions to this fundamental problem - with Thomas ab Aquino, John Locke and Baruch Spinoza - there was the theory offered by Ibn Rushd or Averroes. It makes him the greatest of medieval philosophers.

The Decisive Treatise sums up the entire debate about reason and faith in the Moslem civilisation with the emerging schools of philosophy and jurisprudence since the Koran was codified around 700 after Christ. Drawing upon the various contributions by *inter alia* Farabi, Avicenna and Ghazali as well as many other more like the Azelites, Averroes formulates his position in a few arguments. Thus, we have:

1. The Law or the Book of God (*The Koran*) obliges the believers to study;
2. Any study must make use of logic, which is the best tool of reasoning;
3. Logic is connected with philosophy, studying both theoretical and practical subjects;
4. A Muslim cannot abstain from either logic or philosophy, as the Book of God commands their study;
5. There can be no contradiction between the message of the Book of God and the truth as stated by logic and philosophy, as any statement of faith that is opposed to truth must be interpreted allegorically;
6. The verses in the Book of God can be interpreted literally or allegorically;
7. When it come allegorical interpretations of the verses, one cannot expect much consensus.
8. Thus, the reading of the Book of God is compatible with freedom of interpretation, except when there is unanimity among believers.
9. What hold for theoretical issue is also true for practical matters, like the governing of the *Ummah* by law and rational jurisprudence.

Muslims, thus, have to live with two meanings of the Book of God, the literal and the allegorical. So is the case with Jews and Christians, as stated much later by Spinoza. The only conclusion of the predicament of faith and reason is religious tolerance, as with Locke’ Letter on Tolerance (1699).

The search for true Islam, as with the Salafists, or the Islamisation of state and society, as with the djihadists, is a meaningless effort. It has very negative consequences for the Muslim civilisation, resulting in endless political violence and the deaths of innocent civilians.

The Koran like the “*Sainte Bible*” contains beautiful tales, which

when not in accordance with scientific reason can only be told in their literal meaning as exactly that: stories, as first emphasize by Spinoza in *Tractatus Teologico Politicus* (1677). Yet, the first philosopher to realise the double truth - faith and reason - was none other than Averroes from Marakech.

Conclusion

The only way forward towards the goals of peace and political stability in anarchic countries like Mali, Central African Republic, Somalia, South Sudan, Libya, Egypt, Syria, Iraq, Afghanistan, Pakistan, Bangladesh and Thailand is to go to the constitutional stage and hammer out a compromise upon the norms under which state and society will operate. This means peace conferences, compromise making, bargaining and respect for the deal or pact arrived at.

Political violence today stems mainly from domestic conflicts, driven by rebels and jihadists. Their activities result in massive losses, in lives and material assets. These conflicts are irrational, as they do not lead to any final result and just involve destruction. At the end of the day, there has to be an agreement about a *modus vivendi*. The longer the political violence goes on, the less to share or divide at the necessary constitutional stage.

The political violence in the Muslim civilisation constitutes an enormous drag upon it, accompanied by terrible losses, in human beings and material assets. The end to these horrible hostilities can only come from compromise, negotiation and a pact that secures the rule of law, also for Moslems. There is nothing in The Koran that forbids a peaceful and rational interpretation of Islam, as emphasized by the greatest of all Muslim philosophers, Ibn Rushd [30]. The longer the extreme political violence goes on in Syria, Iraq and Afghanistan, the less of valuable resources and material assets for all Muslims.

Note 1: The conflict barometers are compiled by the Heidelberg Institute for International Conflict Research and published yearly. The Heidelberg Institute for International Conflict Research (HIIC) is located at the Department of Political Science, University of Heidelberg, registered as a non-profit association. The "CONIS" database contains all the data which the Conflict Barometer is based on. It comprises information on all forms of inter- and intrastate political conflicts from 1945 until today.

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