Terrorism and Philanthropy. Counter Terrorism Financing Regimes, International Civil Society, and Religious Fundamentalism.

By Peter Christian Weber*

Abstract: Philanthropy has been seen as a peculiar feature of human behavior. The common role of philanthropy in all worldly religions and cultures cannot be underemphasized. Nonetheless, philanthropy is not intrinsically good. Academic literature has not yet well explored the dark side of philanthropy. This paper attempts to portray, from a historical perspective, this negative role of philanthropic action, focusing on the role of social welfare provision in terrorist/fundamentalist movements.

Keywords: philanthropy; terrorism; counter-terrorism financing regimes; Hamas; al Qaeda.

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Introduction.

In the aftermath of the September 11, 2001 (hereafter 9/11) terrorist attacks in Washington, D.C. and New York City, the relationship between terrorism and philanthropy has been in the spotlights. This paper aims to stress why the current debate is misleading and, hence, the counter terrorism measures do not hit the mark. Although scholars, investigators and law enforcement officials pointed out to several crucial issues, it has not been taken into account the historical researches on the political taint of philanthropic regimes, the hidden motivations of “givers” (Robbins 2006 and Cavallo 1995) and the complex dynamics of the highly disputed category of “fundamentalism” (e.g., Eisenstadt 1994; Kaplan 1992; Marty 1992) that stress the potential use of philanthropic institutions in order to establish alternative social systems with the clear aim to challenge the central state.

Historically, the development of philanthropic institutions has been a powerful tool to challenge states. Religious fundamentalist organizations – as well as other criminal/hate groups, such as Mafia-kind organizations – have developed social systems that are not complementary to the official welfare systems, but openly aim to fill the *vacuum* of “weak” or “failed” states, which are for different reasons not able to provide the basic social services. The establishment of apparently uncorrupted “philanthropic regimes” represents a valid and powerful alternative to delegitimized states. Philanthropic institutions and philanthropic activities are confronting states on the fields of social service provision, giving space to “anti-welfare states” that may become states. Counter terrorism financing regimes are not able to confront this hornets’ nest. As a matter of fact, these counter

terrorism measures aim at a regulation and control of the unregulated and informal cross border flow of money, thus they do not address the ambiguous role of philanthropy.

Consequentially, I will, first, analyse the concept of terrorism financing, how it gains momentum in the aftermath of 9/11 and – according to the Financial Action Task Force – the different categories of involvement of NPOs and foundations in the terrorism' financial networks. After a glance over the counter terrorism financing measures, I will consider two textbook examples – the cases of al Qaeda and Hamas – that will enlighten, on the one hand, how the current approach might be useful (and partially successful) in one case (i.e. al Qaeda), whereas, on the other hand, in the case of Hamas, it is not able to pinpoint the problem at stake, and therefore propound effective ways out from this impasse. Finally, I will point out to the counter-productive effects of the new counter terrorism financing regimes, the limits of an approach based on accountability and transparency of NPOs and foundations (even if, paradoxically, these practices may represent a step further in the process of legitimisation of the foundations' sector) and the exigency to develop a broader counter terrorism strategy.

Terrorism financing and counter-terrorism-regimes.

Jonsson and Cornell (2007) stress that the issue of terrorism financing, even if not a new phenomenon, has been well researched only after the 9/11 attacks. Slowly a relationship between terrorism financing and philanthropy emerged. Nevertheless, the majority of studies focus either on the general issue of terrorism (e.g., Roth et al. 2004, Weiss 2005, Napoleoni 2004 and 2005a) or on the financial systems of particular terrorist groups (e.g., Levitt 2003, 2005 and 2006, Abu-Amr 1993, Israeli Ministry of Foreign Affairs

2004). From the point of view of philanthropic studies, the majority of sources, published by the sector itself or by counselling agencies, expound the possible impact of the new legal framework on foundations' activities (e.g., Krause 2003, Independent Sector 2004, Gallagher 2004 and Bjorklund et al. 2005), the role of charities as terrorist fundraisers (e.g., Burr and Collins 2006, FATF 2002 and 2006, Ly 2007 and ICG 2003) and the potential role of philanthropy in the global war on terrorism (e.g., Fradkin 2005, Perry 2006 and Kutzin 2004). Religious and other ideological organizations use the nonprofit form in order to maximize faith or adherents rather than monetary profits and, consequentially, to foster taste formation, socialization, and group identification (James 1989, 6 and James and Rose-Ackerman 1986, 52-54). According to this stream of research, charitable investments are seen by terrorist groups as a way to advertise their ideals among potential sympathizers (Ly 2007, 178).

In short, the debate on the relationship between terrorism and philanthropy focuses on the involvement of foundations and NPOs in the fund-raising systems of terrorist organizations, the use of these philanthropic organizations as covers and on the negative effects of the counter terrorism financing regimes on cross border giving. These aspects – indeed critical – do not consider the ambiguity of philanthropy and may deceive the counter terrorism efforts. Likewise, national and international law enforcement agencies have not been able to develop efficient counter terrorism measures. Terrorism financing regimes focus, on the one hand, on the international flow of money and on whether funds are consciously or unconsciously diverted to terrorist groups. As a result, on the other hand, the public discussion pointed out to the controversial problem of whether or not the social infrastructures of organizations such as Hamas and the Muslim Brotherhood are legitimate targets of counter terrorism efforts (ICG, 2003).

1. The Nonprofit Sector and Terrorism. Legal Funds for Terror?

> In this war against terrorism, one of the most critical battles will take place not in a foreign land, but in the financial world, as we seek to paralyze terrorist activities by cutting off the financial head of groups like [a]l Qaeda (United States. Subcommittee on International Trade and Finance. November 14, 2001).

The 9/11 terrorist attacks represented a watershed in the war against terrorism. Terrorism financing and the complex financial networks of hate groups had yet a long history, but the dawn of the new millennium served as a catalyst that helped to generate the political momentum to address this critical issue (Scherpenberg 2001). Furthermore, critics have stressed the political significance of the financial war against terrorism, freezing assets and shutting down terrorists' financial networks represent, indeed, visible signs of successful counter terrorism efforts – even though counter-productive because they prevent the intelligence communities' efforts to "follow the money" and identify the terrorist cells (Clunan, 2005).

Terrorist financing – the act of knowingly providing something of value to persons and groups engaged in terrorist activities (Attorney's Bulletin 2002, 7) – reversed the standard money laundering process. Rather than giving a legal appearance to illegal assets, it involves making legal assets available for criminal purposes. The expression "terrorist financing" commonly describes two distinct sets of activities. On the one side, it defines the provision of funds to *operational terrorist cells*, whereas, on the other side, it may also describe the *fund-raising activities*, through which organized terrorist groups raise money to fund their infrastructure (Roth et al. 2004 and Clunan 2005).

The use of complex financial institutions and transactions, the exploitation of networks of charities and nonprofit organizations, and the misuse of informal banking systems characterize the new international terrorism (Kaldor 2003) less linked to the old state-sponsored form, and, thus, more difficult to attack in its financial and fund-raising systems. Terrorist funds may not only be provided through criminal activities ("dirty money"), but also through legal financial and humanitarian infrastructures ("clean money") that hide the terrorist activities of such groups.

The intersections between legal fund-raising systems and criminal enterprises as well as the ambiguity between overt and concealed terrorist infrastructures give space for potential misuses of NPOs, charities and foundations. The Financial Action Task Force (FATF) stressed the need for the whole international community to consider the risk of an exploitation of NPOs by terrorist groups (FATF 2003-2004, 8) and identifies four different typologies of possible misuse of the nonprofit sector. Charitable institutions can be used to raise funds, transfer money, make illegal transfers, and provide direct logistical support or serve as a cover for terrorist operations (FATF 2003-2004, 8-10).

Since 9/11, numerous countries have adopted new laws and regulations to fight terrorist financing. In the aftermath of the attacks, the Financial Intelligence Units (FIUs) have become active actors in the national counter terrorism financing (and counter money laundering) efforts, and the FATF has been acknowledged as the primary international body for the development of standards and best practices in the fight against money laundering and terrorism financing. The international community progressively has focused on the potential misuse of charities, alternative remittance systems, and money service businesses.

The capacity to adapt of terrorist financial networks to the changing legal environment stresses the risks of unilateral procedures and the need for a global approach to the issue (Napoleoni, 2005a).

The United States developed a counter financing terrorism strategy based on tactical actions to disrupt individual nodes in the terrorist financial networks and strategic initiatives to change the environment within which terrorists (and other international criminals) raise and move their funds (e.g., Weiss 2005 and CFR 2002).

The European Union Counter Terrorism Strategy – based on the recommendations and standards issued by the Financial Action Task Force – is characterized by four pillars: prevent, protect, pursue, and respond (EU 2005). The areas of prevention and protection are strictly intertwined, and aim to create a hostile environment for terrorism, prevent violent radicalization, and disrupt the financing of terrorism. The Commission of the European Communities, in 2004, had identified three relevant areas for the fight against terrorist financing: first, cross-national co-operation in the exchange of information; second, enhanced trace-ability of financial transactions; and, third, greater transparency of legal entities (EU 2004).

The post 9/11 legal framework raised concerns among scholars, journalists and within the nonprofit sector itself. The general attention focused on the harmful side effects of the new counter terrorism financing regimes. The focus on Islamic philanthropy and the breakdown of Muslim American charities is limiting the role that organizations, legally registered in the United States, might play, for cultural affinity, in conflict areas in the Muslim world, where Western organizations are likely to be seen as enemies (or at least as the “others”). Furthermore, the new legislation on terrorism financing influenced the American third sector as a whole mainly in its cross-border patterns of giving, rather than

curtailing the amount of international grant-making activities of U.S. based foundations. The most negative impact of the new legal framework is the decision of American foundations to avoid to work with and through local Muslim nonprofit organizations (for the fear of possible links with terrorism), and, as a result, to increase the cooperation with "Friends of" organizations, big international humanitarian organizations, and nonprofit groups based in the United States. The double negative outcome of this approach is, on the one hand, the probably less efficiency of humanitarian relief work due to the suspicions of Muslim populations toward Western organizations, in particular in those countries where are located Western military basis. On the other side, as stressed by Altermann and Hunter (2004), this new patterns of cross-border giving establish a privileged connection with some few local groups, therefore holding back the development of a strong and pluralist third sector in countries where it is more likely needed.

These counter terrorism financing approaches, even though crucial, may be considered as a pure palliative, because they do not explore the deep roots of the "philanthropic ambiguity."

> Terror groups gain military control of the territory and proceed to destroy the existent socio-economic infrastructure, or what is left of it. Their final aim is to replace it with the armed groups' own socio-economic infrastructure, an economic system created exclusively to feed the armed struggle (Napoleoni 2004).

Loretta Napoleoni (2004) points out the goal of some terror groups, i.e. the replacement of the states' socio-economic infrastructure with the intention to sustain their military actions. However, the problem may be even more complex and critical; terrorist groups do not aim only at establishing (legal or semi-legal) economic systems in order to feed their military

wings, but, rather, at developing social networks (i.e. philanthropic institutions) that may replace the entire state system.

Terrorism and Philanthropy.

In relation to terrorism financing, charities and foundations are typically described as fundraisers and front organizations of terrorist groups. The discussion on the role of charities in the financial networks of terrorism focused on whether these organizations are misused by terrorists or are fronts set up by radical groups to raise funds for the "cause."

Muslim charities became a key tool of Saudi support to the mujahideen during the Soviet invasion of Afghanistan. The network of charities created in support of the Afghan jihad, intentionally and unintentionally, became part of the funding system of al Qaeda, which emerged among the numerous Islamic organizations based in Afghanistan during the war. Where the organization created by bin Laden aims at the global jihad against the Western and American "evil," Hamas is an Islamic as well as a national resistance movement. The Palestinian group, as an outgrowth of the Muslim Brotherhood, established a broad network of welfare organizations aiming at the radicalization and Islamization of the Palestinian society. The funds, collected locally and internationally, serve to sustain both the welfare system and the armed struggle against external and internal enemies. Al Qaeda and Hamas offer two textbook examples of different forms and goals of terrorist controlled welfare organizations. Where al Qaeda uses charitable institutions mainly to raise and transfer funds, Hamas established a broad civil infrastructure that, on the one hand, gives the movement a legal face and, on the other hand, represents the ideal cover for its financial as well as terrorist activities.

1. Saudi Arabia and al Qaeda.

> After the September 11 attacks, the highest-level U.S. government officials publicly declared that the fight against al Qaeda financing was as critical as the fight against al Qaeda itself. It has been presented as one of the keys to success in the fight against terrorism: if we choke off the terrorists' money, we limit their ability to conduct mass casualty attacks (Roth et al. 2004).

Al Qaeda (literally, "The Base") was established in 1988/89 between Afghanistan and Pakistan (Peshawar), and is the outgrowth of MAK (Mekhtab al khidemat), a recruiting office for the jihad against the Soviet invasion, founded in 1984 by the Palestinian Azzam and the Saudi bin Laden (e.g., Wright 2007, Schneckener 2002 and Burke 2003).

It is commonly assumed that al Qaeda's financial sources were mainly based on the private wealth of bin Laden, and on legal (e.g. businesses and donations) and illegal sources (drugs, kidnapping, etc.). According to several authors, al Qaeda used a variety of illegitimate means to finance itself (the allegations typically stress the role of drug trade and conflict diamonds), but the investigations of the 9/11 Commission did not confirm these suspects (Roth et al. 2004 and Comras 2005). Moreover, the popular myth that Osama bin Laden has supported al Qaeda through his personal fortune and his network of businesses was exploded. Rather, al Qaeda financial facilitators raise money from witting and unwitting donors, mosques and sympathetic imams, and non-government organizations such as charities (Roth et al. 2004, Wright 2007 and Schneckener 2002). The CIA estimates al Qaeda's expenditures at about $30 million per year to sustain its activities before 9/11, an amount raised almost entirely through donations (Roth et al. 2004). The most important source of al Qaeda's money is its continuous fundraising efforts. Al Qaeda's financial backbone was built by the foundation of charities,

nongovernmental organizations, mosques, websites, fund-raisers, intermediaries, facilitators, and banks and other financial institutions that helped finance the mujahideen throughout the 1980s (CFR 2002).

A study of the Council on Foreign Relations identifies four main components of al Qaeda's financial network. Firstly, it exploits the Islamic banking system. In fact, many Islamic banks operate under loose regulatory oversight, because, on the one side, they are based in jurisdictions without proper controls, and, on the other side, their religious nature often allows them a greater degree of autonomy. Secondly, it uses the *hawala* banking system, which allows money transfer without actual money movement, or any wire transfer. Thirdly, it developed a network of businesses and charities as covers to move its funds. And, finally, in extreme cases, it can rely on physically transported sums from one place to another (CFR 2002).

Al Qaeda's strategy toward charities is two-folded. In certain cases, due to lax oversight and the charities' own ineffective financial controls, particularly over transactions in remote regions of the world, it can penetrate specific foreign branch offices of large, internationally recognized charities. In the second class of cases, entire charities may have known of, and even participated in the funnelling of money to al Qaeda (Roth et al. 2004).

Saudi Arabia plays a key role in the international efforts to fight terrorist financing. The intelligence community identified the Kingdom as the primary source of money for al Qaeda, both before and after the September 11 attacks. Fundraisers and facilitators throughout Saudi Arabia and the Gulf raised money for al Qaeda from witting and unwitting donors, and diverted funds from Islamic charities and mosques.

The involvement of the Saudi political establishment was, according to some scholars, a political decision. The seize of the Great Mosque of Mecca in November 1979

by an extremist group represented a watershed. Afterwards, Saudi Arabia began to use their oil revenues to finance, as self-insurance, and ensure Saudi leadership in the resurgence and spread of Islam (Burr and Collins 2006, 29).

In time, the distinction between supporting jihad to promote the revival of Islam and supporting terrorism became blurred.

> At the time of the Soviet withdrawal from Afghanistan in 1989 the patterns of giving through Islamic charities to promote the spread of Islam by resistance movements had been firmly established. It simply continued to flow with unrestricted generosity (Burr and Collins 2006, 29).

Only after al Qaeda's bombings in the peninsula (in 2003 and 2004), the Saudi political establishment reacted to the American pressures for a more effective and comprehensive oversight on its financial and charitable institutions. The main American ally in the region, after the fall of the Iranian shah in 1979, had for a long time been accused to sustain, or at least to turn a blind eye to the activities of its nonprofit sector. But the implementation of counter terrorism financing norms does not derive from the pressure of the United States, but from the "exogenous shock of terrorist attack in the countries in question." In fact, the chief criterion for "successfully combating terrorist financing is [a] sustained political will," the complexity of the fight against terrorist funding "requires participants to have redefined their interests to include combating terrorism" (Clunan 2005). As previously in Europe, after the terrorist attacks in Madrid and London, and before in the United States after 9/11, the development of a comprehensive counter terrorism financing regime was the scared recognition to be a target of unpredictable global Islamic terrorism.

Although, after 9/11, al Qaeda's sources, facilitators, and conduits were disrupted (making funds less available and their movement more difficult), the organization still

appears to have the ability to fund terrorist operations, because its expenditures have decreased since 9/11, not supporting anymore the Taliban, its training camps, or an army (Roth et al. 2004). The difficulty of the war against al Qaeda's financial network is linked to these decreased financial needs. On the contrary, a movement, such as Hamas, that bases its strength and popular support on a broad and visible welfare system, represents an easier target.

2. Hamas.

The Arabic word "Hamas" means "courage" or "bravery" (or, according to other sources, "zeal"), and is an acronym for "Harakat Al-Muqawama Al-Islamia" (Islamic Resistance Movement). Hamas was founded in December 1987 during the first week of Intifada, but it yet had a long history on its back. The complexity of Hamas, and the difficulties of the American legislation on terrorist financing to deal with this terrorist organization is due to its ambiguity in carrying out terrorist attacks and welfare activities. The evolution of Hamas shows the historical roots of this seeming nonsense.

The Muslim Brotherhood, Hamas' mother-organization, aimed at an "Islamization of the society." The goal of the Brotherhood, founded in 1928 by Hassan Al Banna in Egypt, was the creation of an Islamic conscience "from inside" (a pressure from the bottom, and not from a revolutionary forefront). The Muslim Brothers "acted less as a counter-government than as a counter-society, which was indeed their goal" (Wright 2007, 25).

The evolution of the Palestinian Islamic movement can be subdivided in four periods (Bianchi 2006, 24-40 and Abu-Amr 1993, 6-10). In the first period (1967-1984), the Islamic Movement was mainly characterized by social activities. The movement, under the leadership of Sheik Ahmad Yassin, founded the "Islamic Center" (1973) and the "Islamic

Association" (1976) for the provision of social services. The final aim of Al Mujamma Al Islami (commonly translated in "Islamic Center") was the da'wa; to provide, in other words, the Palestinians with the social services they needed. In its founding days, the Al Mujamma had the control over a broad range of activities (a mosque, a sport league, a zakat committee, etc.), and in few years it was able to extend its authority to many mosques and properties in Gaza. During the early 1980s the first military wings were born inside the association: the Al Majahadoun Al Falestinioun, and the Al Majd.

The second phase (1984-1994) was characterized by the creation of the Islamic Resistance Movement. Hamas, founded in 1987 during the first Intifada, presented itself both as an opposition, inside Palestinian society, to al Fatah and as a military forefront in the war against the outside enemy, Israel.

> [F]rom the outset, Hamas challenged the PLO, and principally Fatah, swiftly eclipsing all other PLO factions as its chief rival for domestic support. Even then, much of its activity was directed inward. Hamas gradually took up arms and launched attacks against Israelis, but its social and religious agenda was always of central importance. Hamas worked through mosques and Islamic societies and set up charitable institutions that, after the advent of the Palestinian Authority, proved less corrupt and more efficient than their official counterparts (Agha and Malley 2005).

Hamas promoted the jihad for its own political objectives; it differs from its counterparts in other countries because it promotes the liberation of Palestine from Israeli occupation and does not aim at the restoration of the Caliphate in all Muslim countries (Milton-Edwards 1992).

In the third period (1994-2004), the political and military (terrorist) actions became increasingly important beside the social welfare activities. During the Intifada al-Aqsa (2000-2003) the economic situation in the Palestinian Territories worsened to such a degree that the welfare activities provided by the social organizations linked to Hamas

became basic for the survival of large sectors of the Palestinian society (Emiliani 2006, 18-21).

The growing importance of Hamas during and in the aftermath of the second Intifada was the outcome of a political suicide of the Fatah-dominated Palestinian Authority (PA). After Oslo, the Palestinian leadership had focused on securing political control at the cost of national liberation: empowerment of institutions; concentration of power in the hands of Arafat; and constant and hostile pressure of the PA on the Palestinian NPOs. This evolution broke down social relations, in particular because of a disregard for mores and values, and the introduction of unethical codes of conduct governing the functioning of society. The corruption and the lack of transparency and accountability of the Palestinian leadership frightened potential investors and undermined the development of the private sector. Since the beginning of the second Intifada, for all these reasons, the PA failed to articulate a leadership (Roy 2001, 7-17) and created a vacuum that was filled by Hamas.

The fourth period (started in 2005), is characterized by the participation of Hamas in the political game, and by the foundation of its political party, “Change and Reform,” which won the last Palestinian political elections (January 25, 2006). The surprising and unexpected political victory of Hamas led to comments and analysis, which tried to understand the “reasons of the victory.” Marcella Emiliani pointed out to three crucial issues. First, the vote for Hamas was a “protest vote” against the failures and the corruption of the Palestinian Authority (controlled by al Fatah). Second, the victory can be explained only by taking into consideration the deep roots of Hamas in Palestinian society (through its social welfare activities). And, third, the vote was a reaction against the Israeli repression during the Intifada al-Aqsa (Emiliani 2006, 13-20).

Hamas' election campaign had put pressure on al Fatah as an organization and on the PA as a government. Hamas focused on social and economic concerns, whereas al Fatah, being riddled with corruption, ignored these issues, and, thus, re-enforced these accusations, destroying its credibility (Zweiri 2006, 678). Hamas' victory emphasized the importance of political Islam in the Middle East, and the role of Islamists in the Palestinian conflict (Zweiri 2006, 679).

Misconstrued threats and challenges.

Al Qaeda, with its broad network of fundraising institutions, symbolizes the vulnerability of non profit organizations, in particular in the Muslim world. On the contrary, a terrorist movement such as Hamas poses, in addition, a completely different set of questions.

The American law enforcement program on terrorism financing, based on a "list making" approach, is partially aware of this quagmire but only on one side of the coin. It considers, on the one hand, the fact that the First Amendment protects certain financial transactions, in particular by the guaranteed freedoms of speech and associations, and, on the other side, the hybrid nature of many terrorist organizations.

> [It] would be an almost insurmountable law enforcement challenge if we were required to trace the dollars coming from United States sources, through the shadowy Third World financial sector, to their ultimate use in purchasing bombs and bullets. Perhaps more importantly, even if such law enforcement efforts succeeded, it would be even more difficult to establish that the U.S.-based providers specifically knew that the funds were going to the malevolent, rather than humanitarian, purposes of the group (Attorney's Bulletin 2002, 9).

The typologies of misuse identified by the Financial Action Task Force, implicitly, suggest two different levels of involvement of non profit organizations in terrorism. On the one hand, charitable institutions may be used as fundraisers and money-transfer, and, on

the other side, NPOs might provide direct logistical support or cover for terrorist acts. This kind of classification is subtle and blurred, but had driven the approach toward the financial networks of terror.

These categories do not consider a third level of involvement of civil society organizations, i.e. the political misuse of philanthropic institutions by terrorist movements. The development of philanthropic institutions in order to establish a “counter-society,” based on a restrictive and exclusive notion of community, is part of the political agenda of terrorist and hate groups. According to the Gramscian theoretical framework, religious fundamentalisms may be considered as counter-hegemonic movements seeking political power rather than being solely concerned with morality, faith and doctrine (Butko 2004). Counter terrorism regimes, focused on the financial sources of terrorism (hence also on the misuse of charities and NPOs), are not able to address successfully this political rationale of philanthropic regimes. The historical survey of Hamas has shown the deep roots of the movement’s counter-society. Although the emergence of social and economic infrastructures that aim to destroy the state’s order is not exclusively linked to religious fundamentalist movements – rather it is a common feature of terrorist as well as of criminal organizations in the context of weak and failed states (e.g. Napoleoni 2005b and Hessinger 2002) – this paper focuses on the case of Hamas and the role of religious fundamentalism.

A socio-historical analysis of Hamas, through the highly debated lens of *religious fundamentalism* (e.g., Eisenstadt 1994, Kaplan 1992, Marty 1992), stresses the role of philanthropic institutions as tools to challenge the de-legitimated Arab States. It is not the aim of this paper neither to analyse the category of fundamentalism, its controversial relationship to modernity and its one-side use of tradition, nor to implicitly suggest that the

establishment of counter economic and social infrastructures is limited to a dynamic of Islamic fundamentalism. The case of Hamas exemplifies the successful construction of a counter-state, which – due to the collapse of the Palestinian Authority – has been able to transform itself, through the participation to the political game, in a state.

The failure of Arab States – due to the political, economic, cultural, and social legacy of colonialism and their intrinsic lack of legitimacy in front of the “Arab Street” – had opened a *vacuum* that has been filled by fundamentalist movements (e.g., Juergensmeyer 1995 and Sivan 1992). Islamic fundamentalism can not be identified as the cause of the crisis of the Arab states, but, rather, the failure and weaknesses of these states – delegitimized in front of the “Arab street” – gave space to the activities of religious movements (Bassam Tibi 1998). The post-colonial period in Maghreb and the Middle East has been characterized by several nodes of tension that gave to fundamentalism space of manoeuvre. Both the notions of nation-state (Lewis 1988 and 1994) and of a clear-cut separation between religious an secular spheres (Juergensmeyer 1995, 384) were alien to the local Islamic tradition. The Arab secular, authoritarian and military regimes had found their legitimisation in the presumed ability to confront the Israeli state; the military defeats in and the reactions of the political elites after the wars against Israel did not only showed the decreasing interest of these elites for the destiny of the Palestinian refugees but also delegitimized the Arab states (legitimacy based on their military power) in front of the Arab street. Furthermore, fundamentalism manifests itself in periodes social and cultural transformation (Eisenstadt 1993, 113; Kaplan 1992, 7). The accelerated transition from agrarian traditional societies to industrialized and urban ones produces a societal dislocation that creates social and economic discontent. The process of urbanization with all its correlated ills – slums, homelessness, malnutrition, and crime – (Kaplan 1992, 7) leads also to a

break down of the traditional mores and values and to a collapse of the traditional forms of organization of the daily life. The collapse of the extended family, the clan and tribe, the kinship and communal networks left the individual lost and lonely in the midst of an accelerated process of change. The central state has not been able to develop the necessary safety nets (i.e. welfare systems) able to balance the negative by-products of industrialization and urbanization.

This process consisted also in "redrawing the age-old boundaries between state and civil society, with the former invading domains hitherto deemed the game reserve of voluntary associations and institutions" (Sidan 1992, 96). The state's assault on civil society was largely successful; but the late-1960s represented a turning point for the relationship between state and civil society. The political, social and economic debacles of the state gave the opportunity to the Islamic resurgence to challenge the borders between state and civil society (Sivan 1992, 99-101). According to Sivan (1992), "the Islamic resurgence may be interpreted as a response of civil society to state's debacles, recapturing the initiative and redrawing the boundaries between the two" (101).

The drawing and redrawing of the boundaries between state and civil society have been recently enlightened, and it was referred to as a backlash of civil society. The resurgence of Islamism, through the control over civil society organizations, has provoked the counter-reaction of the state. In the context of the global war against terrorism this reaction has been encouraged by international bodies and has not always been driven by the legitimate effort to fight terrorist infrastructures but also by attempts to limit pluralistic and democratic requests. The focus on the relationships between terrorism and nonprofit organizations may have the effect to increase the suspicious about a sector that has been seen, in certain countries, as a threat for the political establishment.

The alleged links between civil society and terrorism has been used by governments to outlaw and establish a stricter control over, national and international, nonprofit organizations according to a political rather than to a security rationale. Sidel (2006) stresses the tendency of governments, in the wake of the terrorist attacks, to view the third sector as a "source of human insecurity and uncivil society." According to the author, the traditional distrust of governments toward the third sector increased, and the sector as a whole came under suspicion, and even if it is not directly linked to terrorism, it is regarded "as easily used by terrorism" (Sidel 2006, 202). In the past five years the potential misuses of the third sector gave the possibility to governments of developing counter terrorism policies that affect the third sector, also with the semi-hidden aim to regulate it (Sidel 2006, 202-203). In the wake of the long war on terror, the euphoria of the late 1980s has been replaced by an overt and implicit backlash of civil society. On the one hand, "managed democracies" and authoritarian regimes put pressure on the emergence of a democratic and pluralistic civil society, and, on the other hand, in recent years, the usefulness of civil society has been questioned (Howell et al. 2006).

The legitimate call for transparency and regulation can be used by some governments and authoritarian regimes as a pretext to increase the state's control over civil society, hence over pluralism. The main goal of the American counter terrorism financing legislation has been to put pressure on, and ask for a more rigorous control over financial and charitable institutions in Middle Eastern countries. Ironically, a milestone of America's conception of democracy, a free civil society, was targeted as a result of this diplomatic effort. Egypt and Saudi Arabia, characterized by extremely restrictive laws on non profit organizations (Elbayar 2005), could use the legislations on terrorism financing to exercise a greater control over civil society. Paradoxically, but not surprisingly, the states'

oversight was most felt by those secular organizations that have promoted democratic values and civil rights. The Islamists, as put by one author, have the mosques that give them ample public space, the Democrats instead must think like guerrillas (Ibrahim 2007, 10). Non profit organizations play a crucial role for the democratic development of Muslim countries, and for what is called a "reformation of Islam." Palestinian NPOs were considered, at least until the Oslo agreements (September 1993), as a symbol of a pluralistic Palestinian society (e.g., Sullivan 1996, 93 and Hammani 2000), and the development of a strong civil society in Afghanistan has been seen as the only way out of the conflict (Jalali 2003). But this role seems to be questioned, and authoritarian regimes in Muslim countries put the United States in front of the choice "either us or bin Laden" (Ibrahim 2007, 9).

Conclusion.

The counter terrorism financing regimes aim at a regulation and control of the informal as well as formal cross-border flow of money. In the aftermath of the 9/11 attacks, investigations have shown the clear link between the nonprofit sector and the financial network of al Qaeda. These counter terrorism measures identified the financial world as a crucial battlefield in the global war on terrorism. As stressed, these actions were partially able to cut down the international financial networks of terrorist groups, but – since investigators and scholars have not focused on the role of philanthropic institutions as counter social and economic infrastructures – did not addressed the ambiguous potential of philanthropy.

The socio-historical overview of Hamas enlightened the dark side of philanthropic activities, hence a counter terrorism regime focused exclusively on the funding systems of such kind of organizations can not be successful – rather it might have far-reaching counterproductive side-effects.

The analysis of Hamas through the lens of religious fundamentalism stress how these (religious) counter-societies are deeply rooted in the failures and weaknesses of Arab states, which, even if secular, are characterized by an authoritarian rule, increasing differences between rich and poor and a “totalitarian” control over all sectors of society. This paper pointed out to the western ambiguous look toward the relationship between states and civil societies in the so-called Third World. The attempt of civil society organizations to redraw the boundaries with the state – whether motivated by true democratic and pluralist concerns or by religious fundamentalist community-based views – are two faces of the same coin. Even if from different viewpoints, the resurgence of civil society (whether a sign of democracy or fundamentalism) is linked to the failure of the central state.

From a general point of view, the nonprofit sector may use this new criticism of charitable institutions as an opportunity to clearly define its field of action, its responsibilities, and its position in society. The development of best practices and codes of conduct that focus on the transparency and accountability of a sector that outside the United States is still in its infancy, might be the first step toward a full recognition of problems of oversight, which only with the terrorist threat found their way onto the first pages of the newspapers and into the political agenda of governments.

The emphasized role of charitable institutions in the financial networks of terrorism has been used, in particular in non-democratic countries, as a pretext for a stronger state

control over the sector. But also in Western countries, the vulnerability of nonprofit organizations stressed the lack of regulation of a sector that, far from submitting it to the control of the state, emphasises a pressing need for good governance, accountability and transparency practices.

The focus on best practices, recommendations, and code of conducts developed in the aftermath of the attacks to prevent possible misuses of charitable institutions stresses the need for better regulations in particular in the field of transparency and accountability. Although the problem of transparency is an extremely broad issue (ethic and governance should be considered as well as financial transactions), the “financial transparency” of nonprofit organizations has been under the spotlights for the role of charitable institutions in the financial networks of terrorism. A more rigorous legislation on the financial transparency of foundations is a tool to avoid the risk, or at least to lower it, of misuses by terrorists. But it is also, considered in the context of the global fight against terrorism financing, a way for foundations to “certificate” their attention toward the issue. Therefore, best practices and codes of conduct are also in the interest of the foundations themselves.

> The flaws and failings of a few in the sector, whether intentional or rooted in ignorance, can damage the field just when the potential for good is growing. So it is imperative that philanthropy is on the front foot, setting its own standards for transparency and accountability and abiding by them. […] But who is ready to join in the effort? It should not be left to a handful of organisations to develop infrastructure and standards. Nor should it be left to a handful of donors to pay for the process - to fund the research and institutions that develop norms and principles on philanthropy's behalf. In both the US and Europe there are still too many free riders watching from the sidelines. A far broader coalition should take ownership in and responsibility for these efforts (Berresford 2003).

The crucial issue of terrorism, its clear public relevance, and the interest of the state can force the third sector to accept a regulation that until now does not exist. The problems of the issue are clearly showed at the European level. A comparison between European foundations would emphasize that, on the one hand, foundations follow different standards

according to the country where they are based, and, on the other side, national standards, basically voluntary and elaborated by the sector itself, are not enough to ensure a real transparency of the sector.

The financial war on terrorism put on the political agenda of governments the need to regulate and control the national and international flow of money. As a result, states focused also on non profit organizations, and in particular on foundations and charities for the size of their assets. Therefore, foundations, both in the United States and in Europe, have the choice either to develop, through umbrella organizations such as the Council on Foundations in the United States and the European Foundation Center in Europe, best practices of accountability and transparency or to wait for regulations issued by governments, but this would represent a defeat for the third sector (Lenkowsky 2004).

> If the Treasury or Justice Department were to take charge of ensuring that charitable contributions do not fall into the hands of terrorists, the result would be no less worrisome for the privacy of philanthropic giving. Opposition to the well-intentioned efforts of the federal charity drive, private foundations, and others not only brings that day closer, but also reinforces the already widespread belief that the non profit world is incapable of policing itself (Lenkowsky 2004).

The most significant and far-reaching outcome of the discussion on the relationship between charitable institutions, terrorism, and its financial networks will be an “acceleration” in the development of internationally recognized best practices for non profit organizations. Where the focus on links between charitable institutions and terrorism is a consequence of a certain political momentum, the call for stricter oversight on, and regulations for non profit organizations has for long been a critical issue in the relationship between third sector and states. In the framework of the war on terrorism financing, the political need to regulate non profit organizations reinforces whoever for a long time has stressed the lack of transparency and accountability of the sector.

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