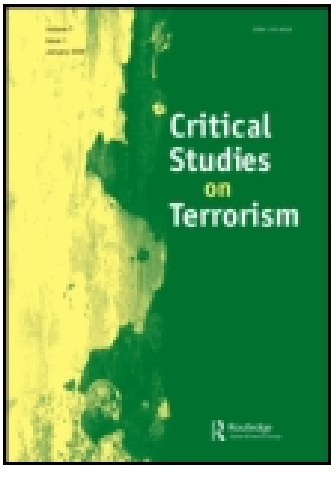

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Stéphane J. Baele[a]
[a] Faculty of Economics and Social Sciences, Tocqueville Chair in Security Policies, University of Namur, Namur, Belgium
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ARTICLE

Are terrorists "insane"? A critical analysis of mental health categories in lone terrorists' trials

Stéphane J. Baele*

Faculty of Economics and Social Sciences, Tocqueville Chair in Security Policies, University of Namur, Namur, Belgium

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Lone terrorists' trials very often include long discussions on the mental health of suspects. This article offers a critical analysis of the mental health categories that are used in lone terrorists' trials. By examining how the judicial concept of "insanity" collided with the psychiatric classification of mental illnesses in Breivik's and Kaczynski's trials, I suggest that lone terrorists' trials can be understood as ritualistic devices whose latent function for society is to reaffirm its progressive values. This is done through the consolidation of a cognitive prototype of the category of the "insane reactionary terrorist."

Keywords: terrorism trials; lone terrorists; categories; psychiatry; function; Breivik; Kaczynski; Wittgenstein

Introduction: terrorism trials, psychiatry, and categorisation

> The dividing line between politically/socially/religiously based terrorism, criminal acts, and acts of violence resulting from severe psychological disturbance are not always clear. […] Should such acts be categorized as terrorist acts or as acts of violence related to mental illness? (Schouten 2010, 370)

The connection between Psychology and Terrorism studies is now a venerable one. On the one hand, many scholars have engaged in an effort to determine whether terrorists share specific psychological or psychiatric traits (e.g. Victoroff 2005; Kruglanski and Fishman 2006; Post 2007). To a large extent, this multifaceted inquiry has been unsuccessful in establishing a personality type of terrorists, stressing instead the variety of terrorists' profiles and backgrounds. As Crenshaw (2000) argued, this research agenda has been fed by political pressure to find such psychological profiles. On the other hand, a more limited series of studies have discussed the diagnoses made by forensic psychiatrists in terrorists' trials, mostly in medical and psychiatry journals (e.g. Gunn 2002; Måseide 2012; Melle 2013). This strand of research has offered comments on both the diagnoses made in court and the controversies that these diagnoses have triggered. Together, these two research agendas indirectly document the important underlying political stakes of the importation of Psychology and Psychiatry into counterterrorism.

The present article addresses one significant aspect of this political dimension of Psychology and Psychiatry in counterterrorism politics by examining how the mental health debate is conducted in lone terrorists' trials. By closely examining how the rival categorisation systems of Law and Psychiatry interplay during these trials, I argue that

*Emails: stephane.baele@unamur.be; stephbaele@hotmail.com

the mental health debate present in lone terrorists' judicial proceedings (together with the media coverage that these procedures receive) works to effectuate their social function: that of reinforcing social cohesion. For this reason, the present analysis contributes to our understanding of the dynamics through which "terrorist trials serve specific goals" (De Graaf et al. 2013, 1). In a nutshell, the central claim is that the importance of the mental health debate in lone terrorists' trials can be understood as a ritualistic device whose latent function for society is to reaffirm its core progressive values through the consolidation of the cognitive prototype standing at the centre of a particular subcategory of "terrorist". This "insanity" framing, which tends to be present in lone terrorists' trials, plays a central role in simplifying, masking, and discrediting the terrorist's ideology – especially when this ideology is reactionary and close to mainstream conservative thought – hence participating in the maintenance of the society's progressive values. The public dimension and the massive media coverage of these trials accentuate this latent function.

This argument is illustrated by two very different examples 16 years apart – Theodore Kaczynski's and Anders Breivik's cases – in order to emphasise the common traits and stakes of the insanity debate in lone terrorists' judicial proceedings.[1] However, the argument could be expanded to many other cases of isolated terrorists' trials. For example, family-planning killer, John Salvi, raised an insanity defence (against his will) after having been diagnosed with paranoid schizophrenia in his 1995 trial, but was nonetheless found "sane" and therefore guilty. Neo-Nazi bomber David Copeland was also diagnosed with paranoid schizophrenia, but again, was nevertheless found "sane" and guilty in his 2000 trial.

Whilst Breivik's and Kaczynski's cases may appear very different, they nonetheless share several traits to the point of being comparable and hence serve as a basis for an effort of general theorisation. Both Kaczynski and Breivik published, before they were caught, a text in which they justified their actions by exposing an ideology which contributes to accredit their classification as "terrorists"; both Kaczynski's and Breivik's political writings reflected a reactionary ideology[2]; both criminals seemed to act alone; both were eventually condemned to life imprisonment. But more importantly, discussions on mental illness occupied a great share of the judicial proceedings and their extensive media coverage: A central question in their trials was that of knowing whether or not these two individuals were "insane". The decision of the prominent medical journal *The Lancet* to dedicate an extensive forum to the question of knowing if "mass murderer Anders Breivik [was] sane or insane" (Måseide 2012) reflects the intensity of the mental health debate in Breivik's trial, which has recently been detailed by Melle (2013). Diamond (2012) similarly observed that the question of insanity occupied "the center of the controversy during this trial".

Many press articles also focused on this dimension. In Kaczynski's case, the issue of mental health was similarly dominant in pretrial discussions[3] and their massive media coverage; when *Washington Post* columnist Booth wrote that "at least three psychiatrists, including one from the federal prison system, concluded Kaczynski suffers from the grandiose fantasies and delusional rage of an unmedicated paranoid schizophrenic in deep denial" (Booth 1998b), he is representative of the fascination towards the precision and importance of the insanity debate in both the press and the judicial proceedings. The persistence of the mental health debate in lone terrorists' trials like those of Breivik and Kaczynski is addressed here because it has profound political implications that range beyond the simple yet important procedural question of (not) raising an insanity defence.

The most direct way to look at these two cases and other similar ones is to consider that it was truly important for the court to accurately establish the state of Kaczynski's and Breivik's mental health. Both have been diagnosed with a specific mental affection – paranoid schizophrenia with delusions – that does not usually lead to a "not guilty" verdict, and were therefore rightly condemned to imprisonment. In many countries, only individuals who were at the time of the offence in a state of "inability to act rationally, that is, to understand what he or she is doing and why, and to act on the basis of that understanding" (Yannoulidis 2003, 197) may fit the category of the "insane" that prevails in law and entails a "not guilty" verdict. The legal category of the "insane" has very strict criteria for membership that do not necessarily correspond to those of the psychiatric category of the paranoid schizophrenic person (and actually the majority of mental illnesses). As Diamond (2012) sums up, "the definition of insanity is a legal rather than a diagnostic one". From this perspective, Breivik and Kaczynski have been considered to be mentally ill, but not to the point of being found irresponsible for their actions.

However, another level of analysis complements this perspective and is necessary to establish a fuller picture of these trials. The recurrent presence of the mental health debate in lone terrorists' trials merits a reflective attitude aimed at disclosing the complex social purposes of these events that operate beyond their participants' agency. More specifically, and in line with Jackson's plea to pay attention to linguistic practices in terrorism issues (Jackson 2005), I argue that closely examining, in a critical fashion, the categories that are used in this debate reveals their instability and subsequently unfolds a more fundamental understanding of why they gain prominence in the specific cases of lone terrorists' trials. It should be clear from the outset that by doing so I do not endorse the idea that mental illness is a "myth"[4] by denying the existence of particular behaviours provoked by mental affection; rather, I resolutely line up with Perring's important statement that opens his entry on "mental illness" in the *Stanford Encyclopedia of Philosophy*: "while there is debate about how to define mental illness, it is generally accepted that mental illnesses are real and involve disturbances of thought, experience, and emotion serious enough to cause functional impairment in people" (Perring 2010).

In this context, the task is to problematise the category of the "insane" (Perlin 1993), to put into light the constructed, normative, and politically charged character of some of the concepts that help us to make sense of this reality. Notwithstanding the reality of mental illness, there is a need to critique the categories that are employed during the trials in which the criminal justice system faces – or claims to face – this reality in the specific case of terrorism. By destabilising these concepts, I intend to show that the categories in use play a political role. In fact, I am simply not interested in establishing whether Kaczynski and Breivik *actually are* paranoid schizophrenic individuals and whether the insanity plea was *adequate* given this diagnosis. Rather, I aim to better understand why these discussions took so much prominence, sometimes at the expense of the ideological justification of the killings.

Hence, the contribution of the present article to the literature is threefold, as it examines three dimensions that are currently understudied in terrorism studies. First, as regards the conceptual contribution I offer, the question of the wider social role and meaning of terrorism trials (and the psychiatric dimension of these trials) has not yet received an in-depth analysis, with the exception of De Graaf et al.'s (2013) recent exploratory study.

Second, as regards the approach I implement, the general question of categories is still overlooked in terrorism studies, despite the fact that categories are the elementary tools of

power[5] and may thereby provide a useful tool of critical analysis. In line with Bourdieu's claim that the very act of categorising allows the exercise of power (Bourdieu 1991, 223), I suggest that categories are important objects for scholars in terrorism studies to examine. To be sure, one category has already been subjected to intense critical deconstruction and reconstruction in mainstream terrorism studies: the very concept of "terrorist"/"terrorism" (e.g. Marsella 2003; Finlay 2009; Schouten 2010; Staun 2010; Barrinha 2011; Spaaij 2012; Herschinger 2013), for which Victoroff famously claimed that "there are roughly as many available definitions as there are published experts in the field" (Victoroff 2005, 4). Besides this central concept though, few categories have been thoroughly scrutinised ("Islamic terrorism" in Jackson (2007); "enemies of the State" in Yin (2007); "religious terrorism" in Gunning and Jackson (2011); "new terrorism" in Spencer (2011)), even if investigating categories closely matches the "core epistemological, ontological and ethical commitments" of critical terrorism studies.[6] However, categories related to insanity have not yet been directly addressed in terrorism studies in a systematic way, even if they are highly contestable.

Third, as regards the cases under scrutiny, I contribute to making terrorism studies less exclusively focused on so-called "Islamic terrorism". Case studies not related to this type of violence have lately received less attention, despite their high death toll and recurrence. To my knowledge, no article in generalist IR journals (*International Organization*, *International Security*, *Review of International Studies* and *International Studies Quarterly*), or in high-end specialised publications (*Terrorism & Political Violence*, *Critical Studies on Terrorism*), has explicitly offered a thorough and direct analysis of the first two dimensions, let alone a combination of all three.

To focus on terrorism, on categories in general, and on those related to the issue of mental health in particular, calls for an interdisciplinary inquiry. As Schouten rightly argues, the multifaceted nature of terrorism necessarily calls for a perspective that transgresses disciplinary boundaries (Schouten 2010). The same is true for categorisation, which has been theorised in many disciplines. Here, I mobilise insights from Psychology, Philosophy of Law, and Criminology, but more significantly I base most of my theoretical argument on Wittgenstein's *Philosophical Investigations*, and, in direct line with these insights, on contemporary cognitive scientists such as Rosch or Lakoff.[7] Like Bohman who considered that no critical inquiry can "be accomplished apart from the interplay between philosophy and social science through interdisciplinary empirical social research" (Bohman 2005), I believe that cross-disciplinary links are crucial tenets in the construction of a critical approach to terrorism and counterterrorism.

My argument proceeds in three steps. First, I examine the various categories and categorisation schemes related to mental health that were present in Kaczynski's and Breivik's paradigmatic cases, offering a Wittgensteinian explanation of the prominence of the mental health debate in these trials. I claim that a tension inevitably emerges from the coexistence of the two contestable and mismatched classification systems of Psychiatry and Law, which contributes to lengthen discussions. Second, I explain why this tension persists in time; I argue that keeping these two incompatible categorisation systems allows the effectuation of a latent social function of lone terrorists' trials – that of proclaiming the progressive values of society by disqualifying its reactionary challenges. Third, I expose how this latent function works, by emphasising the role of prototypical exemplars in human cognition. I suggest that the latent function of isolated terrorists' trials is made operational by the constitution of a prototypical figure that occupies the centre of a subcategory of "terrorist" that is being promoted in these recurrent, similar trials.

Discussion: why mental health discussions are significant in trials

Discussions on mental health are long not only because the psychiatric diagnosis might be contestable. They also last because two mismatched categorical systems interplay. Here are the key excerpts of the reference forensic evaluations of T. Kaczynski and A. Breivik. A diagnosis of the defendants is offered at the end of substantiated expertise:

> Review of extensive collateral information and materials obtained through interviews, support at least on a provisional basis, a diagnosis of Schizophrenia, Paranoid Type, Episodic with Interepisode Residual Symptoms. […] IMPRESSIONS: According to the Diagnostic and Statistical Manual of the American Psychiatric Association, Fourth Edition, I currently view Mr Kaczynski as follows. Axis I: Schizophrenia, Paranoid Type, Episodic with Interepisode Residual Symptoms, 295.30 (Provisional). Axis II: Paranoid Personality Disorder, With Avoidant and Antisocial Features, 301.0 (Premorbid)[8]
>
> The subject meets the criteria for schizophrenia, current corresponding to DSM – IV diagnoses 295.10 to 295.60 and ICD – 10 diagnosis F.20.XX. The subject meets the criteria for schizophrenia, lifetime corresponding to DSM – IV diagnoses 295.10 to 295.60 and ICD – 10 diagnosis F.20.XX. The subject meets the criteria for suicide risk, ongoing high risk. The subject is not found to fill the criteria for other diagnoses through scoring. […] After coding of module A (Affective episodes), module B (psychotic and associated symptoms), module C (Differential diagnosis of psychotic disorders), module D (affective disorders), and module E (Substance abuse disorders), the subject meets the criteria for schizophrenia, paranoid form according to DSM IV.[9]

These quotes reflect the use of a clear-cut system of categories. The task of forensic psychiatry is to produce a precise diagnosis of the defendant, a task made possible by the existence, attested in both excerpts, of the two most widely employed classifications of mental illnesses and affections, the Diagnostic and Statistical Manual (DSM, 5th edition since 2013) and the International Statistical Classification of Diseases and related health problems (ICD, 10th version). These manuals classify a vast array of mental health afflictions on the basis of clinical symptoms. Although the categories put forward in these manuals are not supposed to be understood in a rigid way, the above diagnoses certainly have the appearance of neutral, clinical, incontestable statements whose objectivity is attested to by the systematic organisation of a clear-cut classification system sustained by a hermetic scientific jargon.

In contrast, the law usually makes sense of mental illness on the basis of a single dichotomous categorisation opposing on the one hand "normal" individuals (who may still have excuses linked to an impaired mental state), and on the other hand, "insane" defendants.[10] The divide is an all-or-nothing, sharp one, because it conditions the verdict. The criminal legal system does not recognise the DSM and ICD categories used by psychiatrists. At most, forensic expertise based on the DSM and ICD helps judges or the jury to establish whether the defendant was "insane" at the moment he/she committed the offence. If we refer to Yannoulidis' definition of legal "insanity" (see above), it nonetheless appears that meeting the criteria for membership to this category is very difficult: The defendant (or most probably his/her counsel) should prove that he/she acted impulsively and completely irrationally, that is, without the faculty to understand at the time of the offence what he/she was doing, why he/she was doing it, and why it is usually considered that the act committed is morally wrong.

The vast majority of mental afflictions defined by the DSM or ICD therefore fail to qualify for "insanity"; the law operates "an all-or-nothing test of insanity, a conceptualization which has been peculiarly foreign to psychiatry since at least the middle of the nineteenth century" (Perlin 1990, 633). More importantly, "insanity" is incompatible with

any sort of carefully planned action executed in coherence with a political programme – the core element of most definitions of terrorism. As Schouten (2010) puts it limpidly, "terrorism is a form of targeted, rather than impulsive, violence" (375); therefore, terrorist actions can hardly be interpreted as evidence of insanity, even in cases in which the political programme can hardly be qualified as "rational".

A look at Wittgenstein's insights helps us to understand why the coexistence of two categorisation systems in a same context (here a trial) inherently brings about misunderstanding and tension. In his *Philosophical Investigations*, Wittgenstein put forth the idea that meaning comes from use, and not from an abstract system of formal correspondence between on the one hand, the traits objectively shared by exemplars, and on the other hand, the closed list of criteria making the ideal definition of the category. For Wittgenstein, the process of naming does not rest on comparisons with Platonic idealisations, nor does it result from some sort of positive equation between what is and what is said. Instead, "for a large class of cases – though not for all – in which we employ the word 'meaning' it can be defined thus: the meaning of a word is its use in the language" (Wittgenstein 1968, 20, § 43). The categories we use never refer to unambiguous, fixed, clearly established sets of objects, but rather are employed, with sometimes very different meanings, for practical purposes; that is, they are simply there to be understood, as a tool for efficient communication. One single word may have radically divergent meanings in different situations.

It follows that any attempt to offer a definitive definition of a concept, let alone a system of classification, is in vain. Wittgenstein's view of meaning indeed implies an immediate rejection of any project to put forward clear-cut definitions: "we cannot define (that is, describe) these elements, but only name them" (Wittgenstein 1968, 24, § 49). Any definition would always correspond to one specific situation in which the category is being used, and would therefore reflect the aims that are being followed in this unique context. To define something – say, to take Wittgenstein's famous example, a "game" – always proves impossible; there is an infinite number of possible definitions of the same concept, all depending on the context in which the concept is uttered and the aims which are pursued. It also follows that a word, a label, a concept do not possess a single meaning unambiguously provided by the evidence of its class of referred objects, but rather takes each time a specific sense according to the situation in which it is being used and the projects of the people involved in the discussion. This insight contributes to the present effort to understand the importance of mental health categories in lone terrorists' trials in two interconnected ways.

First, it highlights the fact that categories are much more unstable than they appear and may, therefore, be the subject of endless discussion when actors try to operate a clear-cut categorisation. This is true for both the category of "insanity" in law and the various categories of mental illnesses and affections that are established in the DSM and the ICD. Despite their objective appearance, psychiatric categories are contestable – and are actually hotly contested, not only in the scientific literature but also in court. In both Kaczynski's and Breivik's cases, psychiatric diagnoses have been challenged by other psychiatrists, themselves grounding their rival diagnoses on the very same categories of the DSM and the ICD.

More fundamentally, these categories are also currently contested outside courtrooms, for two other reasons not related to their usage in forensic expertise. On the one hand, it is claimed that they reflect deviance from social values instead of pathological dysfunctions of the brain. In a letter to the editors of the recently released (and already contested) DSM-5, a large number of professional associations of psychiatrists complain that:

> the putative diagnoses presented in DSM-5 are clearly based largely on social norms, with "symptoms" that all rely on subjective judgments with little confirmatory "signs" of evidence or biological causation. The criteria are not value-free, but rather reflect current normative social expectations. (Society for Humanistic Psychology (American Psychological Association) et al. 2012)

Tackling the same issue, Perring (2010) goes as far as claiming that "it is in psychiatry that there is most reason to believe that values enter into the classification scheme".

On the other hand, it is claimed that DSM and ICD categories, although initially intended to correspond to more or less fuzzy ideal-types, tend to be objectified and their boundaries sharpened. As Craddock and Owen denounce, "there has been a strong tendency for the categories to be reified and credited with properties of homogeneity and validity that were never intended [especially] when they are used by individuals without clinical training and experience (such as politicians, lawyers and health service managers)" (Craddock and Owen 2007, 87), like in courts. This literalist use of official typology, referred to as "threshold psychiatry", is contested by those who defend the idea that mental affection "is on a spectrum with 'normal' experience" (Society for Humanistic Psychology (American Psychological Association) et al. 2012). In the light of these contestations, the seemingly robust categories of psychiatry appear to be very unstable and hence are prone to being subject, in court, to contradictory positions and long debates because an unambiguous final diagnosis is explicitly asked for.

Similarly, the legal concept of "insanity" has been thoroughly challenged in the philosophy of law and jurisprudence for several decades. Contestation on the old-fashioned definition of the category of "insanity" gained momentum when it was further narrowed in the USA following the assassination attempt on Ronald Reagan by John Hinckley – later acquitted by reason of insanity – to the point that many professionals and scholars denounce the lapsed, archaic character of the concept. This problem of the essentially contestable character of categories is further exacerbated by the tendency of institutions to enforce unambiguous, clear-cut categories. In psychology, attempts to move away from the current classification have been largely unsuccessful, despite their pertinence. In law, attempts to reform the insanity defence towards more scientifically informed gradual typologies of responsibility have failed – the contrary is even being noticed. In sum, the two categorisation systems that are present here are inherently unstable, but in institutional settings their actors are prone to adopt a dogmatic stance on them (see Kertzer and Arel 2002, 2; Stone 2005, ix). Put together, these two phenomena contribute to produce lengthy discussions on mental health in court.

Second, the Wittgensteinian reflection emphasises that confusion necessarily emerges when a set of categories is taken out of its original context – its normal use – and employed within another setting. Debates between two groups of people using different concepts in order to account for an identical reality can, here again, hardly be clear and limited in time. In the present case, categories used in research and clinical practice are imported into the criminal justice system. Originally, the meaning of the psychiatric categories lies in its particular *use* in diagnosing someone with a certain mental illness, with the aim of treatment. By contrast, the meaning of the legal category of "insanity" stands in its particular *use* in establishing responsibility, with the aim of punishment. As Yannoulidis (2003) rightly remarks, the "conceptual confusion inherent in the current formulation of the insanity defense results from the differing goals and methodologies of Law and Psychiatry" (189). Misunderstanding and controversy emerges therefore from

the meeting of two categorisation systems that are supposed to account for the same problem but do not match.[11]

As Pohlhaus and Wright (2002) have claimed, Wittgensteinian insights on the meaning of concepts constitutes a powerful tool for social critique, because as Pleasants puts it, these insights allow the scholar to "deconstruct tacit knowledge" (Pleasants 1997, 52), that is, to destabilise the meanings and conceptions *usually* associated with seemingly incontestable words. However, if the unstable character of categories and the coexistence of two categorisation systems can satisfactorily explain the inevitable presence of an extensive debate on mental health in the trials wherein the insanity defence is raised, these two Wittgensteinian insights cannot account for the full scope of the insanity debate in lone terrorists' trials. One may still ask why the psychiatric dimension of the insanity debate took such precedence in Kaczynski's and Breivik's trials, since it had little effect on the final verdict (it was immediately clear that both terrorists did not meet the strict criteria for legal insanity, despite clear signs of mental afflictions to some degree). In the next section, I argue that the general tension between psychiatric and legal classifications is aggravated in lone terrorists' trials because it occupies an important but latent function in society.

Function: *why* the mental health debate strengthens societal cohesion

One possible explanation of the recurrence and importance of mental health categories in lone terrorists' trials relates to public pressure to deny terrorists any possibility of successfully obtaining a not guilty for reason of insanity verdict, a pressure largely due to the misperceptions of what happens to people who "benefit" from such a verdict. Perlin (1990, 1993, 1996) explains why the insanity defence remains so narrow and rare by shedding light on the many "myths" about the insanity defence and verdict that are widely shared in the public and even among professionals acting within the penal system, the main one being the (inaccurate) belief that defendants who obtain a "not guilty for reason of insanity" verdict are soon freed: "virtually every belief held by the public about who pleads the insanity defense, how it is abused, what happens to defendants following a not guilty for reason of insanity verdict, where these individuals are institutionalized and for how long, are myths" (Perlin 1990, 642). Building on Hans' empirical studies (e.g. Hans, 1986), Silver, Cirincione, and Steadman similarly observe that:

> almost every study of the public's perceptions of the insanity defence reports consistent support for the notion that the insanity defense is considered a loophole. […] This image of the insane acquittee who "gets off scot free" is undoubtedly the most frequent image associated with the insanity defense put forth by the media. (Silver, Cirincione, and Steadman 1994, 65)

Because of these misperceptions, the public may fear an "insanity" verdict for the most hated convicts, and prompt new heated discussions in court about the defendant's mental health if the initial psychiatric expertise reveals mental health pathology, as it did in the Breivik and Kaczynski cases. This position underpins Melle's (2013) explanation of why Breivik's trial was fuelled by a series of rival forensic reports.

Another possible explanation emerges if we adopt the perspective offered by post-Foucauldian criminology. In line with Foucault's work on both the criminal and the mental health systems, scholars like Mary, Kaminski, and Vanhamme (2008) have argued that categorisations used in the criminal justice system vary across time, but always

implement the exclusion and incarceration of those who are deemed to be undesirable in society. In a landmark paper, Harcourt asked if it was

> possible that the category of the present-day criminal does the same work that used to be done by the category of the "insane" […] Today the categories of "mental illness" and "criminality" – and the correspondent populations of the mental hospital and the prison – seem so distinct, so different, so particular? […] But is it? (Harcourt 2008)

From this perspective, the fact that so much discussion is dedicated to the question of mental health during terrorism trials could reflect an underlying will to label terrorists as criminals and not as insane individuals as they might have been labelled in the past. This is because deviance now tends to be criminalised, despite the resistance of psychologists.

Starting from the same post-Foucauldian principles, a contrary point of view can nonetheless be endorsed; in her paper on Guantanamo detainees, Howell argued that there is a pragmatic inclination to label terrorists as madmen in order to exclude them from the usual routes of justice. Howell (2007, 32) claimed that since "representations of certain groups of people as pathological or mentally ill have a long history of justifying segregation, isolation, and incarceration", the "pathologization of the [terrorist] detainees is one condition of possibility for their excision from the global body politic" (29). Taking the seemingly irreconcilable claims of these two post-Foucauldian perspectives, we can both at once explain the saliency of the mental illness debate in lone terrorists' trials by the need to disqualify those who commit violence against society (cf. Howell), *and* provide an explanation of why lone terrorists always end up in prison and not in asylums (cf. Harcourt). In other words, they need to be both at once pathologised and criminalised.

These two contradictory explanations are particularly illuminating but remain somehow incomplete. I suggest integrating these two approaches into the broader picture of the symbolic, latent functions of social practices. According to Merton's (1968) functionalist social theory, societies are characterised by collective behaviours, actions, proceedings and rites that have both a manifest function (that is, a proclaimed explicit function which is consciously accomplished), and a latent function (that is, a non-explicit function which goes largely unnoticed and is performed unconsciously by society's members). In this context, by fully acknowledging the "ritualistic" dimension of trials (e.g. Perlin 1996), I argue that holding an important debate on mental health in terrorism trials is not only a product of the participants' conscious strategies, nor does it simply allow the implementation of a socially adequate punishment; rather, it also plays a latent function, that of radically disqualifying reactionary ideologies that have the potential to seduce a significant amount of people within society.

In his *Gay Science*, Nietzsche already warned that "wherever we encounter a morality, we also encounter valuations and an order of rank of human impulses and actions. These valuations and orders of rank are always expressions of the needs of a community" (Nietzsche 1974, 174, § 116). This point of view is echoed by Hans' analysis of the "retributive role" of trials, which "refers to an essentially moral dimension and includes the reassertion of societal values and norms" (Hans 1986, 396); and by Yannoulidis' (2002) argument that the criminal justice system "constitutes social bonds by providing knowledge which circulates narratives among the members of a community, and thus establishes norms of conduct and criteria" (151). In line with Merton's functionalism and these insights on legal insanity, I claim that the latent ritualistic function of the insanity discussions in lone terrorists' trials meets the specific need of the community to reassert its values and norms. A trial is a moral communication not only to the convict (as theorised in Duff 2001), but also to the public. To consider that lone terrorists' trials

have the latent function of reaffirming the group's morality stands in the heritage of Malinowski's and Radcliffe-Brown's anthropological depictions of rituals as operating for the "reintegration of the group's shaken morality and the re-establishment of morale" after a challenge (Malinowski, cited by George 1956, 125).

The magnitude of the mental health debate, fuelled by the tension between the psychiatric and legal classifications, is important for the good functioning of this latent function of strengthening community bonds around key values which are reasserted. Lengthy and well-publicised discussions on the (deficient) mental state of the defendant act as an official (given the status of the court) and public (the role of the press is crucial) disqualification of the ideology underpinning the killings. The trials of Kaczynski and Breivik, and also those of Salvi, Copeland, and the like, can be understood as rituals that performatively qualify an ideology, *via* its prominent actor, as insane. What is at stake in these trials is not only the individual put into trial, but more fundamentally his/her ideology, because this ideology contradicts the core values of society. Paradoxically, this is done by avoiding discussions on the ideology: Focusing on insanity contributes to simplify the ideology put forward by the accused and to portray this ideology as the emanation of madness. During Breivik's trial, his far-right ideology has never been seriously discussed, and in Kaczynski's case his neo-luddite perspective has also been shadowed and caricatured by the insanity debate. Again, I do not deny the role of agency in this limitation of discussions to the question of insanity (the judge has, at least in the US, to limit the scope of questioning in accordance with the defence strategy). Rather, I bring the inquiry at another level of analysis.

An important sign that mental illness labelling operates the latent social function of preserving society's values is its individualising effect. The discussions paradoxically disqualify an ideology by insisting on the individual illness of a single person. Together with the characterisation of some terrorists as "lone wolves" or "isolated killers", it participates in disconnecting their ideas from the social: The ideologies are pictured as the rotten fruits of disturbed individual minds, and certainly not the results of broader social interactions in which these individuals played the final role. However, Kaczynski's and Breivik's ideologies were deeply interwoven into the social. Kaczynski's radical anti-technology statements can be precisely located in a prolific and respectable philosophical tradition that has roots in prominent thinkers like Nietzsche, Heidegger, and Jonas. Most of Breivik's prose does not fit with the traditional extreme-right discourse on race superiority, but rather seems to draw from (less extreme and more popular) communitarian justifications of the right of communities to strictly limit immigration and protect their values. As Tietze lucidly observed in *The Guardian* at one point of Breivik's trial, the stakes are high for the people holding these views:

> The race was on for some to depoliticise Breivik's acts; the problem was that his politics were not just similar to their own, but often drawn directly from their statements, cut and pasted into his tract. In many cases the only difference was that he took their language of a war of civilisations to its logical conclusion in violence. […] The main form this depoliticisation took was the medicalization of Breivik's action in terms of psychological or psychiatric pathology. (Tietze 2012)

Whilst I do not share Rastier's critique of the content of Breivik's psychiatric diagnoses, I agree where he writes that these diagnoses "mask a political and organizational dimension: by looking at individual reasons, one is barred from discerning the collective implications of the massacre" (Rastier 2012, 14, my translation).

Furthermore, these individualising discussions on mental health and this veiling of ideology are especially crucial when they permit the caricaturing and disqualifying of ideas that are not only in line with a "sane" philosophical tradition, but are (or could potentially be) also endorsed by a big proportion of the population. In these cases, the insanity debate plays the role of simplifying and masking ideas that motivated the action. One can safely argue that significant pieces of Kaczynski's and Breivik's views are widely shared by the public. In his controversial book, *The United States versus Theodore Kaczynski: Ethics, Power and the Invention of the Unabomber* (1999), Michael Mello argues that labelling Kaczynski as mentally ill participates in a "curative tale" because his ideas were too radical and dangerous to be disseminated within society. In contrast, Chase suggests in his equally controversial essay that the mental health categorisation was crucial because Kaczynski's precepts are common:

> The truly disturbing aspect of Kaczynski and his ideas is not that they are so foreign but that they are so familiar. The manifesto is the work of neither a genius nor a maniac. Except for its call to violence, the ideas it expresses are perfectly ordinary and unoriginal, shared by many Americans. Its pessimism over the direction of civilization and its rejection of the modern world are shared especially with the country's most highly educated. The manifesto is, in other words, an academic – and popular – cliché. (Chase 2000)

In both cases though, the important point is that Kaczynski's ideas had to be dismissed because they might have influenced the public. The latent function is to bar radical but common (or potentially attractive) ideas to disseminate.

Even more precisely, both Kaczynski's and Breivik's doctrines are reactionary – and the same could be said of the ideologies of many other lone terrorists whose trials were influenced by the mental health debate (like Salvi, Rudolph, and Copeland). They have in common a will to counter recent social developments, to decry a certain idea of progress; they insist on the desirability of a return to society as it (supposedly) was in the recent past, before immigration became substantial (Breivik, Copeland), before technological devices took too much place in our lives and started to restrain freedom (Kaczynski), and before policymakers established new progressive rights like the right to abortion (Salvi, Rudolph). In this light, the mental health tension has the latent function of protecting society's values as they currently develop (and not as they were), of disqualifying the temptation to abandon faith in relatively newly established norms such as gender equality, multiculturalism, faith in technology, secularist views on abortion and euthanasia, and the like. As such, the "insanity" framing of some terrorists plays the role of resilience, understood as the capacity for a society to subsist after a shock (that of the terrorist's actions). These trials latently press the public to have faith in their community's path forward.

In this context, it is particularly noteworthy that defendants are lucid when it comes to the societal stakes of their categorisation as mentally deficient individuals. Throughout their respective trials, both Breivik and Kaczynski have struggled against their pathologisation for the very reason that they could foresee that such classification operates as a veil on their ideologies and diminishes their influence on the public's ideas. The summary of Kaczynski's case in the Cornell University Law Information Institute Case Summaries makes clear that "throughout the proceedings, Kaczynski remained steadfast in his rejection of a strategy that would have required him to plead insanity or otherwise argue that he was unfit to stand trial" (Cornell University Law

Information Institute 2013). Commenting on Kaczynski's trial in the *Times*, Pellegrini explained that:

> the bedraggled defense team may offer a "stealth" psychiatric defense. By emphasizing the most bizarre aspects of their client's life and alleged bombing campaign – even putting Kaczynski himself on the stand – they will be priming jurors to believe what the accused has forbidden his lawyers from claiming aloud: that Theodore Kaczynski is insane. (Pellegrini 1998)

Kaczynski did never depart from this attitude; in his pre-sentencing statement, he concluded on the question of mental illness that "by discrediting me personally, they hope to discredit the ideas expressed by the Unabomber"; his notebook attests that this awareness was already present before he was arrested:

> If some speculation occurs, they are bound to make me out to be a sickie, and to ascribe to me motives of a sordid or "sick" type. Of course, the term "sick" in such a context represents a value judgment. The news media may have something to say about me when I am killed or caught. And they are bound to try to analyse my psychology and depict me as "sick". This powerful bias should be borne in mind in reading any attempts to analyze my psychology. (Kaczynski, cited in Chase 2000)

In an identical way, Breivik resisted attempts to categorise him as mentally ill, and has tried on several occasions to expand on his ideology when debates on mental health were assuming importance. In both his opening and final statements, he emphasised his position and attempted to recast the debate on ideological grounds (although he was repeatedly asked to stop when doing so):

> Norwegian media and prosecutors have argued and will continue to argue that the reasons why I executed the 22/7 attack were inconsequential, […] that I'm crazy and that I therefore should be immediately ignored and forgotten, […] that I am a cruel and insane person who is only looking for attention to my own person. […] They also claimed that I am narcissistic, antisocial, psychopathic, that I have a phobia for germs and put on a face mask daily for many years, that I only like red sweaters and that I've had an incestuous relationship with my own mother. […] They also claimed that I am physically and mentally retarded with an IQ around 80. (Breivik's opening court statement)

> To start with, every human being should be considered sane/accountable before law. Of those that evaluated me, 37 persons in total, highly qualified in psychiatry and the evaluation of psychiatric cases, of those 37, 35 didn't recognize any symptoms in me at all. […][12] The state attorneys alleged that in the beginning, it was my goal to be declared insane. That is not true. […] It is not true, that at any point I was in favor of being declared insane. (Breivik's final court statement)

His relations with the psychiatrists who examined him were similarly marked by a sustained and lucid contestation of the pathologisation attempt. As one can read in the forensic report:

> The experts requisitioned an MR scan of the subject's head, but the subject did not wish to contribute to this. On the contrary, he considered it a violation of him as an ideological prisoner, as he regarded it as an insinuation of brain damage. […Breivik said:] "I do not want to contribute to my own character assassination. […] Ideological bias has the individuals as its lackeys". […] The experts ask the subject why he was not willing to take the MRI. It is an insult, the subject says, adding: "It is insinuating for an ideological prisoner. It is like saying that all Islamists are brain damaged […] It is a familiar tactic to say that ideological prisoners are insane."[13]

However, defendants are in a no-win situation, because their attempts to refute the classification of mental illness are interpreted by the experts and judges as a supplementary proof that they are, in fact, mentally deficient. The expert knowledge of psychiatry, which counts denial amongst the constitutive traits of severe mental affections, again contributes to preventing the trial to offer a political explanation of the terrorist act. Reporting on Kaczynski's trial in the *Washington Post*, Booth recorded this not-so-innocent comment from the judge:

> Before the plea bargain, [judge] Burrell called Kaczynski's refusal to allow his lawyers to mount a limited mental health defense "completely unreasonable" and was angered that the trial was twice delayed over Kaczynski's inability to agree with lawyers, who wanted to describe his mental illness to jurors. (Booth 1998b)

In Breivik's case, the press was prone to mock his attempts to counter the mental health categorisation, as the following quote from *The Guardian* illustrates (note the use of the expressions "plot" or "he complained", and the use of quotation marks around "militant nationalist" ideology"):

> The 33-year-old claimed that questions about his mental health were part of a plot to discredit his "militant nationalist" ideology. Breivik suggested he was the victim of double standards and would not have been subjected to psychiatric examination had he been a "bearded jihadist". "They are trying to delegitimise everything I stand for," he complained. (Harding 2012)

Given all this, a question remains: why have Kaczynski's and Breivik's trials ended with the court sharply dismissing the insanity claim, in other words, by recognising them as fully responsible individuals? Terrorists almost invariably end up in the classic penitentiary system and not in asylums; both Kaczynski and Breivik have been diagnosed with paranoid schizophrenia but have been sentenced to life imprisonment. Building on Yannoulidis' (2012) plea that scholars should seek to disclose an overarching coherence beyond the apparent contradictions of insanity defence, I argue that this is where the seemingly incongruous possibility of being simultaneously diagnosed with a severe mental illness and recognised as "sane" makes sense. Whatever the mental state of the defendant, he/she has to be punished in order to accomplish the latent function: his/her ideology has to be formally recognised as incompatible with the law – that is, with the normative structure of society. Punishment, in the public's (distorted, as we have seen) eyes, cannot emerge from a successful insanity plea. As Hans argues:

> by finding defendants not guilty by reason of insanity, we absolve them of blame and assert that they do not deserve punishment. Yet this precludes the opportunity for retribution. The failure to define a transgression as legally and morally wrong may disturb many law-abiding members of society. (Hans 1986, 396)

This twofold function of both at once disqualifying and punishing powerfully prevents actors from reforming the insanity defence in a "more coherent" way.

Cognition: *how* the mental health debate strengthens societal cohesion

I have first exposed one reason why trials in which an insanity defence is raised are likely to be characterised by long discussions. I have then suggested that these discussions are necessary to the good working of one important latent function of lone terrorists' trials – that of

protecting society's progressive values against contagious reactionary thought. It remains to be seen *how* exactly this latent function is actuated by these discussions on categories of mental impairment. In other words, I now aim to expose how these extensive and massively broadcasted discussions on insanity in cases like Breivik's and Kaczynski's have this impact of effectively protecting society from the dissemination of too radically reactionary ideas.

Put simply, this latent function works through the updating, the renewal, and the consolidation of a cognitive prototype of the category of the "insane terrorist". In other words, big trials such as Kaczynski's and Breivik's together sustain, in a chronic fashion, the establishment of a mental prototypical image of the "insane terrorist" figure, an image which intertwines radical reactionary ideological positions, madness, and acts of extremely repulsive violence that invariably get severely punished.

To understand this, another look at the insights provided by Wittgenstein in his *Philosophical Investigations* is necessary. If we accept his idea that categorisation is not a neat procedure of comparison between objective traits of an object and a finite list of criteria for appurtenance, then the question arises as to how we actually categorise when we think and speak. Wittgenstein argued that people name and therefore categorise phenomena and objects according to a dynamic of resemblance–dissemblance that he named "family resemblance" in order to stress the analogy with the indistinguishable resemblances that members of a family have in common. In other words, to name something "Y" in a context Z is to consider that the thing in question resembles other things considered to be occurrences of "Y" in a similar context of use. Hence, objects never fit a category on a binary yes/no basis, but rather on a degree basis: the more a phenomenon shares resemblances to previous occurrences of "Y", the more, the better "Y" it is.

In what has proved to be one of the most influential sets of contributions in cognitive science, Rosch and her colleagues (1973a, 1973b, 1975, 1978; Mervis 1975) modelled and empirically tested these Wittgensteinian insights in order to see if they were accurate depictions of the way people actually categorise. The findings largely confirmed that most categorisation, understood this time as a cognitive process, proceeds through a family-resemblance model. Rosch put forward the additional idea that for categorisation to be performed, resemblance is needed between a new occurrence and various exemplars that people have in memory. Moreover, she argued that resemblance is needed with the most prominent, typical figures of these exemplars.

The core idea is that comparison is not operated with constant reference to the characteristics of all category members already in memory or of an abstract ideal "Platonician" concept, but rather prominently with reference to the most typical exemplar(s) of the category that is (are) available to memory. Thanks to emotional processes and to conscious or unconscious learning, several previous occurrences of the category might have been particularly significant for the individual and have therefore received an important place in his/her memory. In Lakoff's terms, these typical exemplars enjoy a "centrality" in the category, and allow for "metonymic reasoning" – the fact that "a member or subcategory can stand metonymically for the whole category for the purpose of making inferences or judgments" (Lakoff and Johnson 1987, 79). Prototypes and metonymic reasoning are now considered to be a "major aspect of human reason" (Lakoff and Johnson 1987, 87).

Several researchers have also stressed the internal coherence of categories, that is, they have documented the logical links that exist between the various traits of the prototype and the memorised non-prototypical members of the category. Coherence results from basic, folk theorisations that make the traits, exemplars, and prototype fit together like the different pieces of a puzzle (e.g. Ahn et al. 2000; Rehder 2003a); more than that, larger folk theorisations also ensure a cross-categorical coherence. As Rehder puts it, "people's

knowledge of many categories includes not just a representation of a category's features but also an explicit representation of the causal mechanisms that people believe link those features" (Rehder 2003a, 1141), which is why "the operation of many cognitive processes depends on the world knowledge that a person possesses" (Rehder 2003b, 709). For this reason, once an individual faces a new object and more or less consciously proceeds to categorisation, he/she already "expects certain distributions of features in [to-be-categorised] category members" (Rehder 2003b, 712).

Hence, in everyday life, central "prototypes" are not neutral: They are "paragons" of the category, that is, they possess a normative charge, tending to "represent either an ideal or its opposite" (Lakoff and Johnson 1987, 87). In this perspective, no categorisation system is morally neutral. In other words, categories play a role in sustaining a particular moral system: "our very notions of what is moral are built into our unconscious conceptual systems" (Lakoff 1996, 37). These paragons also "define moral expectations" (Lakoff and Johnson 1987, 81) and help individuals to understand new occurrences of phenomenon and objects that resemble the category, and to have a moral position on these new occurrences. In this view, no social category is value-neutral.

Recurrent big trials of lone terrorists such as Kaczynski and Breivik have powerful cognitive impacts. The reinforcement of normatively charged cognitive prototypes is one of them. Because of their stereotypical proceedings that make them rituals (lengthy and repetitive discussions on the defendant's insanity, insistence on the isolated character of the actions and situation of the terrorist, highly emotional accounts in court and in the press, eventual guilty verdict and imprisonment of the defendant), these trials periodically renew in people's minds a mental category of terrorist whose centrality is occupied by the prototype of the "insane terrorist". The massive and biased[14] press coverage strengthens the establishment of this figure in memory.

This prototypical figure, periodically re-inscribed with force through largely similar trials, intertwines several causally linked traits: madness, radical reactionary ideology, asocial character, acts severely punished. In one of his papers on the insanity defence, Perlin hinted at this cognitive dimension by referring (without further explanation) to the "typification heuristic" through which "we characterize a current experience [of a to-be-categorized defendant] via reference to past stereotypic behavior" (Perlin 1996, 16). Breivik and Kaczynski serve as metonymic models that actualise the prototype. The recurrence of very similar trials is a key element in the perpetuation of this category.

The simple presence of the central prototype of the "insane – radical reactionary – asocial – awfully violent" terrorist is not enough to make it a powerful device enacting the latent function of terrorism trials. Of crucial importance in this role are both the theorisation which links together traits into a coherent figure ("this category of individuals is always punished *because* they are violent *because* they believe in reactionary ideologies *because* they are mad"), and the normative expectations that this coherent figure creates in our minds when we encounter reactionary ideologues ("this person is radically doubting the way society progresses *so* he/she must be insane *so* he/she must be violent *so* he/she is morally reprehensible – therefore this person should be avoided"). Similarly, the presence of past prototypes of insane terrorists leads the public and the actors of the criminal justice system to understand subsequent cases of reactionary "lone wolf" terrorism as new expressions of madness.

Conclusion

Reflecting on the temptation to qualify terrorists as mentally disturbed, Victoroff (2005) rightly warned that "just as the terrorist adopts absolutist thinking to justify his indefensible

immoral actions, the horrific threat of terrorism may perhaps provoke absolutist thinking about terrorists among some observers" (33). The present article followed this injunction by adopting a critical stance on the categories that are used when studying and reacting to terrorism. More specifically, I have tried to offer a critical analysis of mental health categories in lone terrorists' trials. I have shown that one useful way to look at the importance and recurrence of the mental health debate in these trials is to highlight the latent social function that this debate plays, beyond the apparent contradictions between its psychiatric and legal poles. I have argued that they help society to reassert its progressive values and strengthen the bonds of the community after the traumatic shock of a terrorist action, by reaffirming and updating a cognitive prototype that encourages us to be suspicious of and morally repelled by radical reactionary ideologies and their advocates.

Of course, not all trials of "isolated" terrorists are as much influenced by the insanity debate as the Kaczynski or Breivik cases. I insist that insanity discussions make no sense (functionally speaking) in absence of a clear ideology (as in McVeigh's case), or in the presence of an ideology which is too alien to be seducing for the population (as in Z. Moussaoui's case). The absence of an insanity defence in the trial of D. Tsarnaev, the Boston marathon bomber, can be understood in this light.

It is an open question whether this latent function is actually successful, or if it has become, in Merton's (1968) own terms, a "dysfunction". It seems to me that whilst it proves successful at large, it might prove unsuccessful or even counterproductive for two categories of people: on the one hand, for the few individuals in the public who support and have a less simplistic knowledge of the ideology of the terrorist than that produced by its veiling through mental health discussions in court, and on the other hand, for those who experience a profound distrust of the State (sometimes up to the point of engaging in conspiracy theories). Those people might indeed become increasingly suspicious and hateful of society's progressive values as they somehow comprehend the mechanisms at play – and may engage themselves in violence. Any terrorism scholar visiting support websites for Kaczynski, Breivik, or Salvi may indeed gain the feeling that this is a serious possibility.

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Notes

1. On 22 July 2011, Anders Breivik activated a bomb that exploded in front of the government's building in Oslo, Norway. He then drove to Utoya, where he killed 69 people who were attending a camp organised by the youth section of a political party. Between 1978 and 1995, Theodore Kaczynski operated a bombing campaign throughout the US, mainly through the postal service, killing three people and injuring more than 20 others; from these actions, which targeted mainly university and airlines personnel, he gained the nickname of "Unabomber."
2. I will expand on this notion of "conservatism" later in the article. It is worth noting that Breivik has plagiarised, in his "2083. A European Declaration of Independence", several paragraphs of Kaczynski's pamphlet "Industrial Society and its Future."
3. Because of the American practice of "guilty pleas," Kaczynski did not have a trial *strictly speaking*. There were, however, consequent pretrial proceedings that were massively covered by the press. I acknowledge this specificity but for the sake of fluidity and since this

particularity does not thwart my argument, will use the term "trial" in the rest of the article when referring to these proceedings.

4. In line with the radical views of the anti-psychiatry movement (e.g. Szasz 1974).
5. As Stone figuratively noted, "if social scientists ever discover the molecule of governance, surely it would be the category" (Stone 2005, ix). Goodman and Speer similarly held that "the speech act of categorizing can itself be an exertion of power" (Goodman and Speer 2007, 180).
6. Defined as "an appreciation of the politically constructed nature of terrorism knowledge; an awareness of the inherent ontological instability of the 'terrorism' category; a commitment to critical reflexivity regarding the uses to which research findings are put; a set of well-defined research ethics and a normative commitment to an emancipatory political praxis" (Jackson 2007, 244).
7. My use of Wittgenstein (and his heritage in cognitive psychology) in the context of terrorism studies is unusual (to my knowledge, only Staun (2010) has so far followed this path) and could count as a fourth dimension of my contribution to the literature.
8. Johnson (1998).
9. Husbyand Sorheim (2011).
10. Exceptions exist. In several countries and US states, the law recognises an intermediary category (e.g. "limited capacity").
11. It has to be noted that the DSM-IV explicitly warns against this risk of confusion, in a Wittgensteinian fashion: "When the DSM-IV categories, criteria, and textual descriptions are employed for forensic purposes, there are significant risks that diagnostic information will be misused or misunderstood. These dangers arise because of the imperfect fit between the questions of ultimate concern to the law and the information contained in a clinical diagnosis" (American Psychiatric Association 2005, xxiii).
12. The reader will take care not to take these claims at face value. To my knowledge, they are blatantly false.
13. Husby and Sorheim (2011).
14. In the sense of not conveying accurate information on the insanity defence (read Silver, Cirincione, and Steadman 1994, 65).

Notes on contributor

Dr Stephane J. Baele is a postdoctoral teaching and research assistant at the Tocqueville Chair in Security Policies, University of Namur (Belgium). He studied Philosophy and International Relations at the Catholic University of Louvain (with a stay at Sciences Po Paris), University College London (where he was Marie Curie Fellow), and the University of Namur (with a stay at Northwestern University). His research focuses on the impact of linguistic and cognitive dynamics on the construction, implementation, and sustenance of ethically contestable policies, especially when these policies aim at increasing security.

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