

Terrorism: The Ambiguity of a Concept and the Need for Consensual Definition

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Abstract

Many countries have had to deal with the tragic consequences of terrorist attacks. However, there is still very little consensus within the international community on which action actually constitutes an act of terrorism. This lack of consensus has made it virtually impossible to adopt an international convention on terrorism that includes a legally binding and an all-inclusive definition of terrorism. The main consequence of the absence of a UN Security Council definition of terrorism is, that it is left to states to determine which violent acts constitute an act of terrorism. Therefore, states are allowed to develop their own definitions of terrorism, which may be ambiguous and contradictory. This has in turn allowed states to persecute and prosecute known and perceived opponents and breach fundamental human rights under the guise of UN Security Council Resolutions. There is need for countries to adopt a common definition of terrorism in order to form a strong international coalition against the terrorist movement.

Keywords: Guerrilla, Legislation, Terrorism, Violence

Introduction

The use of terror by weaker or desperate parties in asymmetric conflicts has steadily increased since the 20th century. By the second decade of the 21st century, it had been adopted by most Islamic fundamentalists involved in jihads, or fighting for Islamic states. There are also miniscule elements of terrorism in conflicts involving non-Islamic insurgents, guerrillas, and militants. The result, today, is that terrorism has become a global phenomenon. Yet, the capacity of the international community to present a common front against terrorism appears to have been vitiated by the conflicting interpretations by states of what constitutes terrorist act.

Defining terrorism goes beyond theoretical framework, it involves operative concern as well. Terrorism is no longer a local problem of specific countries but an issue with global dimension. Terrorists may perpetrate attacks in a number of countries. The victims of attacks could be of different nationalities. The offices, headquarters, and training camps of terrorist groups function in different countries. Terrorists receive direct and indirect assistance from different countries, enlist support from different ethnic groups, and secure financial help throughout the world. Since terrorism is an international phenomenon, responses to terrorism must also be on an international scale. For there to be an effective multinational strategy against terrorism, there is need for a consensus on what is to be dealt with. International mobilisation against terrorism, such as that which began in the 1970s, including the 1970 Hague Convention for the Unlawful Seizure of Aircraft and the 1971 Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation or others which began in the mid 1990s and culminated in the international conventions in the G-7 countries, and the Sharm-el-Sheik Conference cannot achieve operational results as long as the participants cannot agree on a consensual definition. In fact as Rao and Rao have correctly suggested, "one person's terrorist [could be] another person's freedom fighter."¹ For instance, terrorist Islamic States or terrorists in Islamic dominated territories see freedom in democratic states as freedom to sin.² Without answering the question, "What is terrorism?", no responsibility or sanction can be imposed on countries supporting terrorism or steps be taken to combat terrorist groups and their allies.

In the absence of a common or universally acceptable definition³, it is impossible to formulate or enforce international agreements against

terrorism. For example, the necessity for extradition of terrorists underscores the need for an internationally acceptable definition of terrorism. Although many countries have signed bilateral and multilateral agreements concerning a number of crimes, extradition of persons associated with political offences is often explicitly excluded from such agreements, despite the fact that the background of terrorism is always political. This lacuna allows many countries to derelict in their obligation to extradite individuals wanted for terrorist activities. This paper points out the ambiguity in the prevailing concepts of terrorism and discusses the need for a consensual definition of terrorism.

Ambiguity in Conceptualisation of Terrorism

The term, 'terrorism', was coined from the word, terror, which originated from a Latin verb, '*terrere*', meaning 'to frighten'. Campbell observes that *terror cimbricus* was a panic and state of emergency in Rome in response to the approaching of warriors of the Cimri tribe in 105 BC.⁴ In modern time, it has been adopted to mean a wide range of deployment of force largely targeted at civilian population by disgruntled elements within the society to direct the attention of government to their demands or to force a change of government. The difficulty associated with evolving an acceptable definition of terrorism leads Hoffman to observe, that:

*If one identifies with the victim of the violence, for example, then the act is terrorism. If, however, one identifies with the perpetrator, the violent act is regarded in a more sympathetic, if not positive (or, at the worst, ambivalent) light; and it is not terrorism.*⁵

Regardless of the problem associated with the definition, certain attributes of terrorism manifest in bombings, assassinations, armed assaults, kidnappings, hostage-taking and hijackings. We concur in Cunningham's assertion, that a wide variety of actors, ranging from individuals, groups, and institutions to governments, and states, and practice what has been defined as *terrorism*.⁶ The involvement of America in Vietnam, Iraq, Pakistan, and Libya, among others, was seen as terrorist act. This goes further to justify, that the definition of terrorism is a function of individual perception. Hence, terrorism is not limited to non-state actors. This want of universal conception of terrorism has led some scholars to

note, that 'one man's terrorist is another man's freedom fighter'.⁷

The fact that state and non-state actors engage in acts of terrorism informs the position of Falk, that:

*It is futile and hypocritical self-deception to suppose that we can use the word terrorism to establish a double standard pertaining to the use of political violence. ... Terrorism, then, is used here to designate any type of political violence that lacks an adequate moral and legal justification, regardless of whether the actor is a revolutionary group or a government.*⁸

First, the victims of terrorist attacks are usually civilians, not combatants. Terrorists do not usually target armed police or soldiers who have the capability to fight back. Second, the perpetrators are not recognised combatants. Neither do they carry arms openly nor wear recognisable uniforms or insignia prior to or during attacks.

Terrorists do not recognise the rules and laws of war, as their acts are in violation of the Geneva Convention for the Protection of Civilians in Time of War (1949). Also, terrorist acts are by nature symbolic, not instrumental, as the act itself may not be sufficient to bring about the desired change. The immediate victims of attacks are, usually or necessarily, not the intended targets. The reaction of the wider audience to the state of insecurity, fear and terror, are required by them to influence governments and citizenry in order to achieve their goals. Extant literature, however, notes that terrorism is motivated by larger political and religious causes and the acts are symbolically carried out in order to further its cause.

To demonstrate more clearly the differing perspectives on terrorism, we provide here, *ipsissima verba*, examples of ambiguous interpretations and conceptions of terrorism as presented by Paul Medhurst. The International Law Commission looks at terrorism as:

- i Any act causing death or grievous bodily harm or loss of liberty to a head of state, persons exercising the prerogatives of the head of state, their hereditary or designated successors, the spouse of such persons, or persons charged with public functions or holding public positions when the act is directed against them in their public capacity.

- ii Acts calculated to destroy or damage public property or property devoted to a public purpose.
- iii Any act likely to imperil human lives through the creation of a public danger, in particular the seizure of aircraft, the taking of hostages and any form of violence directed against persons who enjoy international protection or diplomatic immunity.
- iv The manufacture, obtaining, possession or supplying of arms, ammunition, explosives or harmful substances with a view to the commission of a terrorist act.⁹

According to the Russian Federation:

i Terrorism, that is setting off explosions, fires or performing other acts endangering human life, causing substantial damage to property or bringing about other consequences dangerous to the public, in so far as those acts are committed for the purpose of disrupting public safety, intimidating the population or influencing decision-making by the authorities, as well as threatening to commit such acts for these purposes shall be punishable by 5-10 years imprisonment.¹⁰

The UK Terrorism Act, 2002 defines terrorism as:

The use or threat of action involving serious violence against a person / where the use or threat is designed to influence the government or to intimidate the public or a section of the public / the use or threat is made for the purpose of advancing a political, religious or ideological cause. It should then involve serious damage to property / endangering a person's life / creating a serious risk to the health or safety of the public or a section of the public / be designed seriously to interfere with or seriously to disrupt an electronic system. Use or threat of action failing within these sections involving the use of firearms or explosives is terrorism. Notes: Action, person, public, property and government includes those outside of the United Kingdom.¹¹

The US Department of Defense sees terrorism as:

The calculated use of violence or the threat of violence to inculcate fear; intended to coerce or to intimidate governments or societies in the pursuit of goals that are generally political, religious, or ideological.¹²

Sometimes terrorism and guerrilla warfare are either confused or thought of as similar phenomena. It is important, even at the risk of digression, to elucidate the nuances between these two methods of warfare, in order to make the concept of terrorism more comprehensible. Terrorism and guerrilla warfare often serve as alternative designations of the same phenomenon. However, terrorism has a far more negative connotation, seemingly requiring one to take a stand; but the term guerrilla warfare is perceived as neutral and carries a more positive connotation. It is instructive to note, that part of the problem bedeviling the use of the concept, "guerrilla warfare", stems from its ambiguity. Yehoshafat Harkabi cites this nebulousness in differentiating between "guerrilla warfare" and "guerrilla war"¹³ Harkabi describes "guerrilla war" as a prolonged war of attrition, with progressively increasing violence, blurred limits, a fluid line of contact, emphasising the human factor. In the course of the war, guerrilla combatants become regular military forces until victory is attained and one party defeated.¹⁴ Similarly, Huntington argues that "guerrilla warfare is a form of warfare by which the strategically weaker side assumes the tactical offensive in selected forms, times and places. Guerrilla warfare is the weapon of the weak."¹⁵ Basil Davidson agrees with a 19th century French observer as well as with Mao Tsetung, that guerrillas, when pursued, could become lost among the people they are fighting for and could reappear from among them with greater strength. On this note Davidson sees guerrilla war simply as "people's war".¹⁶ Harkabi points out that terrorism frequently appears in guerrilla war. He indicates that "guerrilla activity is best placed on a sequence, ranging from sporadic terrorist attacks not necessarily against military units, up to sustained guerrilla warfare and confrontation with military forces".¹⁷ Others view guerrilla war and terrorism as two separate points along one sequence dealing with the use of violence.¹⁸

Clearer line has been drawn by authors, between guerrilla warfare and terrorism. Thus, for instance, Walter Laqueur writes, "Urban terrorism is not a new stage in guerrilla war but differs from it in essential respects and [that] it is also heir to a different tradition."¹⁹

The essence of guerrilla warfare is to establish foci or liberated areas, in the countryside and to set up small military units which will gradually grow in strength, number and equipment...in order to fight battles against

government troops. In the liberated areas, the guerrillas establish their own institutions, conduct propaganda and engage in other open political activities. None of this applies to terrorists, whose base of operation is in the cities and who have to operate clandestinely in small units.²⁰

Ehud Sprinzak opines that, "Guerrilla war is a small war – subject to the same rules that apply to big wars and on this it differs from terrorism."²¹ David Rapaport adds: "The traditional distinguishing characteristic of the terrorist was his explicit refusal to accept the conventional moral limits which defined military and guerrilla action."²²

As opposed to Laqueur, Paul Wilkinson distinguishes between terrorism and guerrilla warfare by adding another dimension – harm to civilians:

*Guerrillas may fight with small members and often inadequate weaponry but they can and often do fight according to conventions of war, taking and exchanging prisoners and respecting the rights of non-combatants. Terrorists place no limits on means employed and frequently resort to widespread assassination, the waging of 'general terror' upon the indigenous civilian population.*²³

As could be deduced, terrorism is distinguished from guerrilla activity according to the intended target of attack. The definitions state that if an attack is deliberately targeted at civilians, then that attack will be considered a terrorist attack, whereas, if it is targeted at military or security personnel then it will be considered a guerrilla attack. It all depends on who the intended victims are. The aim here is to answer the need for analyzing and classifying specific events as terrorism or guerrilla activities. Most groups resorting to violence for the purpose of attaining political objectives have not refrained from harming civilians as well as military personnel. These groups, then, can be defined as both terrorist groups and guerrilla movements.

The Need for a Consensual Definition of Terrorism

The need for a general definition of terrorism can be seen at almost every corner in the war against terror. For example, an enduring legislation on terrorism cannot be enacted without such a definition.

A definition of terrorism is necessary when legislating laws designed to ban terrorism or check assistance to terrorists, as well as when setting jail terms for terrorists or confiscating their financial resources and supplies. Without widely accepted definition, such legislation will have no value. Legislation and punishment must stress the difference between terrorism and ordinary crime, even when they might actually be identical in practice. The need for a separate legislation and punishment for terrorism stems from the enormous danger that terrorism, due to its political dimension, as opposed to crime, poses to society and its values and to the government in power and the public at large. It is along this thinking, that Ben Paul argues, that a “generic definition of terrorism can capture and stigmatized the political motives which distinguish terrorism from ordinary violent crime, or transnational organized crime for financial benefit.”²⁴

For the co-operation between countries in the struggle against terrorism to be further strengthened, there is need for an internationally accepted definition of terrorism. This need is particularly obvious in all that concerns the formulation and ratification of international conventions against terrorism – conventions against the perpetration of terrorist acts, assistance to terrorism, transfer of funds to terrorist groups, state support for terrorist groups and conventions compelling the extradition of terrorists.

States sponsoring terrorism use terrorist groups as a means to their own ends, while these groups depend on the economic, military and operational assistance they receive from such countries. Some groups, because of their dependence on the assistance of states, have become puppets, functioning at the initiative and direction of the states that are sponsoring them. It is extremely difficult to tackle terrorism effectively without severing the close ties between the terrorist groups and the sponsoring states. Without agreeing on a broad definition of terrorism, these ties can neither be severed nor steps taken against the sponsoring states.

The operational capacity of the terrorist groups must be limited as far as possible. In other words, states struggling against terrorism must retain the initiative. Naturally, countries on the defensive enjoy the

sympathy of others, while those on the offensive are usually censored and criticised by others. To ensure that there is international support for states struggling against terrorism and perhaps even for a joint offensive, an internationally accepted definition of terrorism is required that will distinguish freedom fighting (which is accorded a measure of legitimacy by nations) from terrorist activity.

Terrorist groups often rely on the assistance and support of a sympathetic civilian population. To undermine the ability of the group to obtain support, assistance, and aid from this population, there is need for an effective instrument in the limitation of terrorist activity. A definition of terrorism will be appropriate here, especially in determining new rules of the game in both the local and international sphere. A group contemplating the use of terrorism to attain its political aim stands the risk of losing its legitimacy, no matter the support it has from the population.

Conclusion

Perpetrators are most likely to be discouraged from choosing terrorism as their *modus operandi*, if they know that attacking civilians or civilian targets will never be accepted, and that these attacks will turn them into wanted and extraditable terrorists or undermine the legitimacy of their political goals. With the adoption of a universally accepted definition of terrorism, formulating rules of behaviour and setting appropriate punishment in line with the definition will sharpen the "cost benefit" considerations of terrorist groups. One way of encouraging this trend among terrorist groups is, to agree on different types of punishment for those convicted of terrorism and those convicted of guerrilla warfare. For example, individuals involved in terrorist activities should be brought to criminal trial under specific charges of terrorism, while those accused of involvement in guerrilla activities should be allotted prisoner of war status (lawful combatant status).

We are of the opinion, that a universally accepted definition of terrorism, serving as a basis for international counter-terrorist measure, could bring terrorist groups to reconsider their actions. They must face the question of whether they will persist in terrorist attacks and risk all the alienation such persistence might entail – losing legitimacy, incurring harsh and specific punishments, facing a co-ordinated international opposition (including military operation), and losing the sources of

support and revenue.

Finally, by understanding the threat posed by international terrorism, we can undertake focused law enforcement action and implement effective protective security measures. We can, at the same time, improve our understanding of the dynamics of terrorism and thus make more effective the development of more concise political strategies to address them. However, to understand terrorism is not to condone it. There can never be any justification for terrorism. The unjust, horrendous, and most savage movement of our time can be stopped by a world united under a common anti-terrorist front.²⁵

Endnotes

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- ⁹Medhurst, *Global Terrorism*, 87.
- ¹⁰Ibid. See, also Russian Federation, criminal legislation, Section 1X: Crimes against Public Safety and Public Order, Chapter 24; Crimes against Public Safety, Article 205.
- ¹¹Medhurst, *Global Terrorism*, 88. See, also, United Kingdom Terrorism Act,

2000, Extracts and Basics.

¹²Medhurst, *Global Terrorism*, 88.

¹³Y. Harkabi, *On Guerrilla Warfare* (Tel Aviv: Ma'arakhot, 1983): 27.

¹⁴Y. Harkabi, *Guerrilla Warfare*; 16.

¹⁵Walter Laqueur, *Guerrilla Warfare, a Historical and Critical Study* (London: Weldenfeld & Nicholson, 1977): 392.

¹⁶Basil Davidson, *The People's Cause: A History of Guerrillas in Africa* (London: Longman, 1981): 3-5.

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¹⁸A. P. Schmidt, *Political Terrorism* (SWIDO: Amsterdam and Transaction Books, 1984): 41.

¹⁹Walter Laqueur, *The Age of Terrorism*, (Boston-Toronto: Little Brown, 1987); 1.

²⁰Walter Laqueur, *Age of Terrorism*, 147.

²¹In a lecture at a workshop on "Israel and Terrorism" sponsored by the International Centre for the study of contemporary society, Jerusalem, 1985.

²²A. P. Schmidt, *Political Terrorism*, 44.

²³A. P. Schmidt, *Political Terrorism*, 42.

²⁴Ben Paul, "Attempts to Define 'Terrorism' in International Law", *Netherlands International Law Review* Vol. 52, No. 1 (2005): 57-83. See particularly the abstract of the paper.

²⁵Mark A. Gabriel, *Journey Into the Mind of an Islamic Terrorist* (Florida, USA: Front Line, 2006), xv.