

**INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES**
[ISSN 2581-5369]

Volume 4 | Issue 1

2021

© 2021 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com>)

This Article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in International Journal of Law Management & Humanities after due review.

In case of **any suggestion or complaint**, please contact Gyan@vidhiaagaz.com.

To submit your Manuscript for Publication at **International Journal of Law Management & Humanities**, kindly email your Manuscript at editor.ijlmh@gmail.com.

International Terrorism: A Pragmatic Perspective

HELEN MARY VARGHESE¹ AND RIZLANA NAZAR PV²

ABSTRACT

Terrorism has led to deliberate concerns over the cost of humanity especially with devastating consequences to individuals' and society's' enjoyment of basic rights and security. International terrorism has passed through leaps and bounds in the past decade with rise and decline of many terrorist groups, growing fatalities, expanding terrorism to wider regions and also ever-increasing state unrest and civil wars. The concept of terrorism however cannot be specifically defined. The social, political, economic, religious and psychological factors of various regions attribute to the root cause there. In this paper, we examine the major funding and aiding sources of terrorism, women and terrorism, humanity crisis as an impact of terrorist activities, and growing trends in terrorist activities. Furthermore, we tend an exploratory analysis to the extent to which terrorism and civil war overlap and unpack various temporal and spatial patterns. The world is now refuting this demonic act which could be seen through the counterterrorism and counterinsurgency activities of state legislations. We also look into various implementations, legislations, resolutions and task forces setup to counter terrorist activities.

I. INTRODUCTION

*“Anarchy is a crime against the whole human race; and all mankind should band against the anarchist. His crime should be made an offence against the law of nations, like piracy and that form of man-stealing known as the slave trade; for it is of far blacker infamy than either”.*³

- Theodore Roosevelt, State of the Union Address, 3 December 1901 (following the assassination of President William McKinley by an anarchist terrorist)

Terrorism has led to deliberate concerns over the cost of humanity especially with devastating consequences to individuals' and society's' enjoyment of basic rights and

¹ Author is a student at School of Legal Studies, CUSAT, India.

² Author is a student at School of Legal Studies, CUSAT, India.

³ Theodore Roosevelt, *What Did Teddy Roosevelt Think About Anarchism?*, HISTORY NEWS NETWORK, COLUMBIAN COLLEGE OF ARTS AND SCIENCES, <https://historynewsnetwork.org/article/274>

security. The use of violence with the aim of creating fear in a wider audience in order to prevent various parties from doing something, or, on the contrary, to coerce them into a certain behaviour, is as old as mankind. International terrorism has passed through leaps and bounds in the past decade with rise and decline of many terrorist groups, growing fatalities, expanding terrorism to wider regions and also ever increasing state unrest and civil wars. The concept of terrorism however cannot be specifically defined. The social, political, economic, religious and psychological factors of various regions attribute to the root cause there. Factors other than conflict and human rights abuses are more strongly correlated with the impact of terrorism in countries with high levels of economic development. Social alienation, lack of economic opportunity, and involvement in an external conflict are some factors associated with terrorist activity. When examining the drivers of terrorism the presence of armed conflict, political violence by governments, political exclusion and group grievances remain critical factors. Numerous initiatives have evolved with due considerations that now impede the growth of terrorism to a ruthless pinnacle.

II. DEFINING TERRORISM

The task of defining terrorism is complicated, but absolutely necessary in order to develop a sufficient understanding of this phenomenon and to deal with it effectively. There have been many different justifications given for the use of this violence, and many different interested parties defining terrorism, each having their own views and in many cases vested interests in a particular way of defining ‘terrorism’. Efforts to define terrorism have consumed much ink. However, the one thing on which every user of the term agrees is that terrorism is bad. So it has been a catch-call pejorative, applied mainly to matters involving force or political authority in some way but sometimes applied even more broadly to just about any disliked action associated with someone else’s policy agenda.

The term ‘terrorism’ originates from Latin word ‘*terrere*’ that means ‘*to frighten*’. It attained its present form ‘terrorism’ during the Reign of Terror in France from 1793–1794. In Maximilien Robespierre’s words: “...*terror is nothing other than justice, prompt, severe, inflexible; it is therefore an emanation of virtue; it is not so much a special principle as it is a consequence of the general principle of democracy applied to our country's most urgent needs*”.⁴

The US Department of Defence defines terrorism as: “*The calculated use of unlawful*

⁴ Mark Burgess, *A Brief History of Terrorism*, CENTER FOR DEFENSE INFORMATION (Feb. 13, 2015, 7:30 PM), <http://www.cdi.org/friendlyversion/printversion.cfm?documentID=1502>.

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".⁵

The European Union sees as terrorism acts those that aim at:

- Seriously intimidating a population;
- Unduly compelling a government or international organisation to perform or abstain from performing any act;
- Seriously destabilising or destroying the fundamental political, constitutional, economic or social structures of a country or an international organisation.

According to the EU, terrorism is not a particular ideology or movement, but rather a method or tactic for achieving various goals.

Thus, framing an exact definition for the term 'terrorism' becomes a heinous task. Looking into the various definitions also leaves a question in our minds as to what gain do they reap from such activities? Five goals that have been pursued through terrorist activities are identified. They are: (1) regime change, (2) territorial change, (3) policy change, (4) social control and (5) status quo maintenance. These objectives have been pursued through five general strategies: (1) attrition, (2) intimidation, (3) provocation, (4) spoiling and (5) outbidding. Leaving aside the emotional and psychological impacts of terrorism, it is necessary to establish whether and to what extent terrorists have managed pursue these goals.

III. LEGAL DEFINITION OF TERRORISM

Legal definition of terrorism devoted to a question as to why there is a need to define terrorism in law in the first instance. Jorge Friedrichs' account of attempts to define terrorism in international law illustrates two major hurdles that have, to date, stumped this quest⁶. Firstly, States fundamentally disagree as to the distinction between freedom fighters and terrorists⁷. Secondly, States disagree as to whether a definition of terrorism in international law should cover State acts or not⁸. These differences are politically and ideologically driven, with a State's perspective on the issue predicated by its own self-interests. So International law has gradually developed treaties based upon specific crimes considered to be indicative of terrorism—eg plane hijacking and hostage taking.

⁵ Erik Mannik, *Terrorism: Its Past, Present and Future Prospects*, KVUOA TOIMETISED, 2009, at 151, 154.

⁶ Friedrichs, Jorgs, *Defining the International Public Enemy: The Political Struggle Behind the Legal Debate on International Terrorism*, 19 LJIL.69, 69-91 (2006).

⁷ *ibid* 72-5.

⁸ *ibid* 76-6.

In order to define terrorism the International Law came up with two approaches namely:-

1. Inductive approach
2. Deductive approach

In inductive approach the definition of terrorism is used in particular to the power or problem identified. Thus it does not necessarily seek to provide a universal definition covering all instances but instead defines terrorism to only cover specific situations that it can accommodate. Inductive approach therefore can consist of multiple separate definitions applicable to distinct situations.

In contrast to the inductive approach, the deductive approach starts out with a general definition of terrorism and applies this to numerous different circumstances. So a deductive approach would be expected to produce a single definition of terrorism.

A number of different arguments have been put forward as to why a single definition of terrorism is preferable to a multi-definitional approach. Christian Walter, for example, argues that clarity and certainty are key justifications for a single legal definition of terrorism:

*The main reason for slightly different definitions is not a decision on the purpose by the legislator, but rather the adoption of different measures at different times and a corresponding lack of co-ordination. For the purpose of clarity and legal certainty it would be desirable to adopt as much as possible a single definition of 'terrorism' within any given legal order.*⁹

A similar argument in the international context is put forward by Ben Golder and George Williams who argue that as 'terrorism' has entered the political discourse, the law is to keep pace with this discussion by reflecting our current understanding of terrorism and 'crystallising it in a form consistent with rule of law principles'.

Definitions, in order to be effective, must exclude certain phenomena from their ambit, thus ensuring parameters around concepts and managing its use. A single legal definition of terrorism can potentially help shape how the term is used by both national and international actors. Indeed, one of the key concerns driving the quest for a definition of terrorism in international law is this desire to control its use. Romyana Grozdanova suggests that the litmus test for an effective definition of terrorism in international law would be to 'limit the scope for a political, rather than legal determination of what is 'terrorism' and who is a

⁹ C Walter, *Defining Terrorism in National and International Law*, MAX PLANCK INSTITUTE ON COMPARATIVE PUBLIC LAW AND INTERNATIONAL LAW (Jan. 24, 2003, 10:04 AM), https://www.unodc.org/tldb/bibliography/Biblio_Terr_Def_Walter_2003.pdf.

'terrorist'. A single definition of terrorism may help to confront this subjective nature of labeling an individual or event as terrorist as the labeller is simply applying the legal definition of terrorism to the facts at hand.

IV. CAUSES OF TERRORISM

Terrorism comprises acts of violence meant to instill fear; in an attempt to achieve a change in, or the maintenance of, the status quo. Extremes in psychology, secular ideology, religion, ethnicity, and nationalism often lead to terrorism. Poverty, persecution, lack of human rights, oppression, occupation, and ideologies, such as secular beliefs, and religious and ethnic discrimination often do run as precursors to terrorist acts.¹⁰

One view on the causes of terrorism argues that Capitalist culture inflicts a **psychological terror** on people in Third World countries. The wide gap between the cultures of impoverished countries and the capitalist society; the infiltration of capitalist culture to impoverished nations; governments of Third World countries rigorously trying to embrace Americanization all ended in a significant clash between individualism and community orientation cultures.. One outcome of capitalist penetration is the magnification of the gap between rich and poor. The differences between these two cultures cause tension, which can lead to violence.

"**Ideologies** and beliefs play a crucial role in terrorist's target selection: it supplies terrorists with an initial motive for action and provides a prism through which they view events and the actions of other people. Ideology also allows terrorists to justify their violence by displacing the responsibility onto either their victims or other actors". Ideologies provide an initial range of legitimate targets and a means by which terrorists seek to justify attacks, both to the outside world and to themselves.

Further, the conflict can be **religious** as well as **political**. The religious and political goal being to cleanse one's land from the non-believers, the intruders on their land. Both cases have led to a vicious circle of terror. The apartheid regime of the white minority in South Africa kept its oppressive apparatus through military establishments and violated most codes of ethics against an **ethnic** majority in South Africa. The resurgence was based on human solidarity for their moral and ethnic causes to sustain a strategy to defeat the apartheid regime with help from the international community.

The core characteristic of terrorism is the existence of a **political motive**. This political

¹⁰David P Stewart, *TERRORISM AND HUMAN RIGHTS: THE PERSPECTIVE OF INTERNATIONAL LAW* 11-12, Middle East Institute (2018)

motive forces a group's demands for their human and civil rights, a national home on their own land, and to fight the injustice forced upon them. The motivation to gain a political national independence and a place under the sun causes crises of injustice, and are defended and rectified by violent means.

In the modern day, violence aroused from the **refugee factor** also gains attention. Flapan, in her book recounted words of wisdom uttered by a Palestinian refugee, to the nation occupying his homeland: *“The refugees, if they remain dispossessed and disinherited outside their homes, are the closest thing to wild animals. They will be on the lookout for an opportunity to bounce back and destroy your security, they will remain forever, infiltrating your borders, chasing and getting chased, killing and getting killed, stealing and getting robbed. War has no guarantee and its outcome cannot be predicted. Forever is a very long time for you to live without any feeling of security. . . . If the refugees remain outside, they will be the greatest motivation for [a true Arab awakening] ... and this awakening will be filled with hatred and a desire for vengeance. Some of you might now say there is no place for such qualities among nations; we say that if this were true of all nations, the only exceptions would be ourselves and you”*.¹¹

V. RECENT TRENDS IN TERRORISM

There is a growing body of evidence indicating the decline of terrorism in the epicenters of Syria, Pakistan, Afghanistan and Nigeria, which are four of the five countries most affected by terrorism. In recent years, number of deaths from terrorism has dropped.¹² When compared to the peak of terrorist deaths in 2014, deaths caused due to terrorist attacks is 44 per cent below their peak level. The large falls in the number of deaths in Iraq and Syria is mainly the result of ISIL's continuing decline. Despite its reduced capacity, ISIL remained the deadliest terrorist group globally in 2017. The decline of ISIL has also been reflected in the level of terrorist activity in Europe, with the number of deaths falling by 75 per cent, from 827 in 2016 to 204 in 2017.¹³

Whereas, Somalia and Egypt recorded the largest increase in the number of deaths from terrorism in 2017. In Somalia, Al-Shabaab was responsible for the single largest terrorist attack in 2017 through truck bomb killing 587 people. Egypt experienced the second largest terrorist attack of 2017 from the Islamic State killing 311 people and injuring 122.¹⁴

¹¹ Ibid 15-8

¹² GLOBAL TERRORISM INDEX 2017, 4-7 (Institute For Economics and Peace, 2017)

¹³ Ibid 5,7 - 10

¹⁴ Ibid 41,42-11

The biggest improvement from the impact of terrorism could be seen in Europe which marked a fall in terrorist activity, despite the threat of returnees and online radicalization. Turkey, France, Belgium, and Germany recorded the most significant falls, with only the UK, Spain, Sweden, Finland, and Austria registering increases. The decreased lethality of terrorist attacks in Western Europe indicates the reduced ability of ISIL to plan and coordinate larger scale terrorist attacks, thus owing to increased counterterrorism measures at least in the short term.

The level of violence and terrorist activity in Iraq and Syria has fallen considerably in the last two years. Iraq recorded the biggest fall in 2017, a trend which seems to have continued in 2018. ISIL has lost most of its territory and sources of revenue in Syria and Iraq. The major battlefield defeats of ISIL in Iraq and Syria signaled the beginning of an end of the group's long term territorial ambitions and military strength. As the group has lost territory, it has also suffered a significant loss of revenue, which is estimated to have declined threefold between 2015 and 2016. However, affiliate groups in other regions are becoming more active.

Although the fall in the impact of terrorism has been consistent for the past three years, there are areas in which the threat of terrorism looks set to increase in the near future. The collapse of ISIL in Iraq and Syria has moved the group's activities elsewhere, in particular to the Maghreb and Sahel regions, most notably in Libya, Niger, and Mali, and Southeast Asia, most notably the Philippines. Remarkable is the situation in Nigeria where terrorism deaths attributed to Boko Haram decreased by 80 per cent in 2016. The decline of Boko Haram following interventions from the Multinational Joint Task Force has contributed to an 80 per cent fall in the number of deaths caused by the group in 2016.

The condition in Afghanistan is more complex. While the Taliban reduced their use of terrorist tactics in 2016, especially against civilians, the group stepped up their conventional armed conflict with the government. The Taliban was responsible for nearly 18,000 battle-related deaths in 2016, which are nearly 700 more than in 2015. This is the most since the war commenced in 2001. Consequently, the group expanded its direct territorial control and as of April 2017 controlled at least 11 per cent of the country and contested at least 29 per cent of Afghanistan's 398 districts.¹⁵

VI. FUNDING SOURCES OF TERRORISM

According to the Global Terrorism Index Report of 2017, the global economic impact of

¹⁵ Ibid 5-12

terrorism was US\$84 billion in 2016. This was a 7 per cent decline from the previous year and a 19 per cent decline from the peak in 2014 though this report does not include costs associated with countering terrorism, countering and preventing violent extremism or the indirect costs on business from terrorism. A crucial aspect of global anti-terror efforts involves or necessitates unraveling the networks that have funded these terrorist activities. Terrorists have adeptly proven to maintain these links unmarked. The first step in identifying and preventing the flow of funds to terrorist is to understand the funding requirements of modern terrorist groups. Funds are required for specific terrorist operations, to meet the broader organizational costs of developing and maintaining a terrorist organization, to create an enabling environment necessary to sustain their activities, to create and maintain an infrastructure of organizational support, to sustain an ideology of terrorism through propaganda, and to finance the allegedly legitimate activities needed to provide a veil of legitimacy for terrorist organizations.¹⁶

For these they raise funds from **legitimate sources** including the abuse of charitable entities or legitimate businesses or self-financing by the terrorists themselves, from a variety of **criminal activities** ranging from low-level crime to organized fraud, narcotics smuggling, or from **state sponsors** and activities in failed states and other safe havens. Thus, sources of terrorist financing can be divided into two general types: **financing from above** (large-scale financial support) aggregated centrally by states, companies, charities or permissive financial institutions; and **financing from below** (small-scale financial support) based on self-financing by the terrorists themselves using employment or welfare payments. Globalisation has enabled both terror and crime organizations to expand and diversify their activities, taking advantage of the internationalisation of communications and banking systems, as well as the opening of borders to facilitate their activities. Terrorist organizations receiving support and from and through legitimate also includes 'black washing' where legal funds, for example money stemming from collection by charities or governmental subsidies and social benefits, are diverted for purposes of radicalisation, recruitment or terrorism.

The degree of reliance on drug trafficking as a source of terrorist funding has grown with the decline in state sponsorship of terror groups. Several cases have been identified in which a basic model of bank fraud has been applied to generate funds for terrorism. Terrorist groups also derived their funding and support from state sponsors of terrorism. Newer decentralized, independent groups often do not have the same level of access to foreign funding as

¹⁶ Dr. Covadonga Mallada Fernandez, *Fighting Against Financing of Terrorism and Money Laundering*, 14 GJI, 1, 43-48 (2014)

traditional terrorist groups. As a result, terrorist groups have turned to alternative sources of financing, including criminal activities such as arms trafficking, kidnap-for-ransom, extortion, selling narcotics, credit card fraud, cheque fraud and extortion, racketeering and drug trafficking.

VII. WOMEN AND TERRORISM

Even in the 21st century, the society at large retains the concept of women as the gentler sex, the fosterers and the protectors. But it was grossly misunderstood until the counterterrorism and intelligence communities' confronted the fact that females have been and are fighting and actively involving in terrorist activities. Today's insurgencies and small terrorist groups include numerous women commanding, executing, planning, handling logistics, inspecting in advance of attacks. The world has also witnessed a rise in the number of female suicide bombers.

According to some reports, thirty-four percent of terrorist attacks since 1985 have been carried out by women and more than thirty percent of international terrorists are thought to be female (Nacos 2005, 436). In 2002, for example, on four separate occasions, Palestinian women, starting with Wafa Idris, committed suicide bombings against Israeli targets. In October 2003, a law student from Jenin named Hanadi Jaradat detonated herself in a seaside restaurant in Haifa, killing at least nineteen people. Women have been indulging in many crimes other than terrorism, like molestation, torture, bank robberies and what not. Other major examples of groups of terrorists that include women are the "Black Widows" of Chechnya and the "Liberation Tigers of Tamil Eelam" of Sri Lanka where 40% of the terrorist attacks are attributed to women. The involvement of women to terrorism now necessitates considering the significance for theorizing gender, conflict and social politics. Two major reasons can be cited for this increased involvement.¹⁷ First, the misapprehension of terrorism to attain glory or forgiveness for ones sins and the desire to attain the ultimate paradise stimulates to be part of terrorism. The sins which women try to atone for by blowing themselves up are usually sexual in nature, which is not the case with men.

Second, terrorism assists a woman financially. The suicide bombers, be it men or women, are assured a financial support. Their children are taken care of and are taught to be proud of their mothers because they had shed their lives for a greater cause. Thus, the financial impetus being the driving factor induces women into terrorism. The terrorist organizations

¹⁷ Rajahanuman, *Women in Terrorism*, LEGAL SERVICE INDIA (2019), <http://www.legalservicesindia.com/article/2583/women-in-terrorism>.

find it strategically advantageous to use women rather than men for their activities as they can easily dodge the detection and security, and could be really delusional about their appearances. Female suicide bombers attract much wider media coverage than their male counterparts.

Women victimization in terrorist acts is also increasing at an alarming ratio. Femicide or gynocide refers specifically to the targeted killing of women and girls. In Guatemala at least two women are violently killed every day according to UN statistics.¹⁸ Many of them are also sexually assaulted before they are killed. Rape in wartime situations is also gendered; often is an expression of hegemonic masculinity. The United Nations defines *rape* as ‘sexual intercourse without valid consent’; the World Health organization, takes the definition further, defining rape as ‘physically forced or otherwise coerced penetration—even if slight—of the vulva or anus, using a penis, other body parts or an object’. Victims of rape are feminized, and rapists are confirmed in their heterosexual, hegemonic masculinity, irrespective of whether the victim is a man or a woman

VIII. CONCLUSION

‘Terrorism’ poses many questions, vicissitudes and a series of complexities. It is no longer a problem of specific countries but has evolved into an issue concerning a number of international aspects. It is defined as the ‘*cancer of the modern world*’, a growing threat to the maintenance of an orderly society and a scourge which undermines development, economic and political stability and democratic institution is one of the most challenging problems of the modern times. An unethical, low cost, surrogate war undermines the full exercise of human rights and threatens the stability of many societies in the world.

However, The Global Terrorism Index Report came up with a lot of positive findings which shows a global decline in the number of deaths from terrorist attacks to 25,673 people, which is a 22 per cent improvement from the peak in 2014. Terrorism has fallen significantly in the epicenters of Syria, Pakistan, Afghanistan and Nigeria, which are four of the five countries most affected by terrorism. The ten countries with the largest improvements experienced 7,348 fewer deaths while the 10 countries with the largest deteriorations experienced only 1,389 terrorism deaths. This highlights the strength of the positive trend with the number of people killed by terrorism decreasing for the second successive year.

Implementation of United Nations Counter Terrorism Strategy which was established in

¹⁸ Ortals, C. & Poloni-Staudinger, How Gender Intersects with Political Violence And Terrorism 20-25 (1 Oxford Research Encyclopedias) 2018

September 2006, other International conventions relating to counter terrorism like *The 1997 International Convention for the Suppression of Terrorist Bombings*; the *1999 International Convention for the Suppression of the Financing of Terrorism* and the *International Convention for the Suppression of Acts of Nuclear Terrorism* had also reduced the wrath of terrorism. Indian legislations dealing with counter terrorism are: *The Terrorist and Disruptive Activities (Prevention) Act, 1987*. It was allowed to lapse in 1995 after its misuse. *The Prevention of Terrorism Act (POTA), 2002*. It was enacted after the Parliament attack in 2001. It was also repealed in 2004. *The Unlawful Activities (Prevention) Act, 1967*. It was amended in 2004 to deal with terror activities and later amended in 2012. We have witnessed a dark chapter in our lives. Now it's time that we call upon a change. Let us not allow the history to repeat once more; injustice to proliferate and thereby joining our hands to build a nation bedded on humanity.

“Be Vigilant, Be Resilient, Be United Against Terrorism. Be as One”
