

Characteristics and Legal Essence of International Terrorism

Dr. SASHA DUKOSKI

Assistant Professor
Faculty of Law, "St. Kliment Ohridski" University
Bitola, Rep. of Macedonia

Dr. BERAT AQIFI

Assistant Professor
Faculty of Business Administration
State University of Tetova
Tetovo, Rep. of Macedonia

Abstract:

Terrorism and what comes out of it, has became one of the most dangerous phenomenon of modern time. From the fact that it is hard to predict it and the consequences that it brings with itself, terrorism becomes a political and moral problem that people from the 21 century have to deal with.

For many individuals, groups and organizations, terrorism has became a way of solving problems, no matter if they are political, religious or ethnical.

Modern terrorism brings the need of a constant fight with all the legal assets, because according its own primary definition terrorism represents illegal usage of power or violence from individuals or groups.

Terrorist attacks with all of the brutality that they have within them have brought upon us the need for an international system for fighting it, of course if we all want to bring justice and global safety and not leadership and a halo of peacekeeping above all of us.

Key words: Terrorism, UN, international law, international safety.

Introduction

Appearing since the XIX century as a means of conducting political struggle, at the end of last century, the terrorism is slowly taking shape of a highly developed international network of terrorist organizations with branches in almost all countries of the modern world.

According to the principle of connected vessels the organizational structure has increased by using more sophisticated methods and tools of terrorist activities. The development of the terrorist activities is also filled with increasing list of categories of people that find place on the black list of "fighters for justice." If half a century ago victims of international terrorists, as a rule were politicians, diplomats and businessmen, at the beginning of this millennium the dominant part of the victims have been civilians and innocent people, including elderly, women and children.

The perception of the international terrorism phenomenon is impossible without consideration of the "despised person," with which the members of the international terrorist organizations are intimidated. These people - are usually the leaders of the terrorist groups, half mystic people, that nobody has ever seen them or haven't seen them for a long time. This aura of mystery is often created by the media informing of such events.

Through the "lofty motives" are usually recruited young people who due to the mental and moral immaturity are easy "bite" of the radical national, social and religious ideas. It often involves a totalitarian (complete suppression of the will of the people subjecting the followers only to the will of the "leader"), religious or ideological sect.

Legal definition of international terrorism

Rule for the sequence above political connotations there is no general definition for defining terrorism because of certain international organizations are treated differently in some particular political parties, social groups, countries and relevant segment of the previously elaborated actions. So at the same time we have some understanding of organizations as terrorist and as liberation.

The linguistic meaning of the term *terrorism* is derived from the Latin word *terror* which means fear or horror. The science uses more essential, but essentially similar definitions for this term. So the word terrorism in the Russian science means "intimidation of the political opponents by using physical violence to the extent of destruction." Similar to this is the definition commonly used by the Ministry of Defense of the United States that the word terrorism means: "the premeditated use of violence or threats of violence to induce fear, intended to coerce or to intimidate the government or the society, to the extent of means to achieve political, religious or ideological objectives."

Words *terror*, *terrorism* and *terrorist* act themselves posebe have a generic meaning. However, some relevant international legal theorists who elaborate this sphere have different approaches on the need to define these terms. Thus, the authors: S.A.Efirov and A.V.Naumov thought that far better is not required for determining universal definition of terrorism that actually would be limited to only certain aspects of this concept.¹

According to other authors like Russian theorist A.E.Zhalinski would be useful to attempt to provide work defining terrorism in a generally acceptable legal footing.²

¹ С.А.Эфиров, А.В.Наумов. Характеристика терроризма. СПб.1999 Москва..стр.13

² А.Э.Жалинский. Терроризм .Москва . 2000. стр.15.

Contrary to of this concept is one developed by the authors and V.Malison S.Malison not give definitions of terrorism and terror in the general sense of the term, but giving a possible shirko predeluvanje the actual events that directly or indirectly related to these terms.³

Terrorism – an unlawful use of force and violence by individuals or groups who have direct connections with foreign powers or whose activities cross the national boundaries, against people or objects in order to intimidate or compel the population or any other segment of the society in achieving their political or social objectives.

Other relevant definitions that determine this phenomenon are the following:

- It is an organized form of a violent behavior in order to influence the policy or to intimidate the population to exercise influence on the government policy;⁴
- Symbiotic action directed to influence political behavior by applying extremely unusual means including the use of violence and the threat of violence;⁵
- It is a use of fear, violence or threat to achieve political goals through fear, intimidation or coercion;⁶
- Almost all illegal acts of violence carried out in order to achieve political goals by means of secret groups;⁷
- Intentional, deliberate systematic murder, heavy bodily injury or threatening the innocent to create fear and

³ В.Малиссон, С.Малиссон. *Международный терроризм*. Москва. 2001 .стр.61

⁴ James Lodge, *Terrorism: A Challenge to the State* (Martin Robertson, Oxford,1981) str. 5

⁵ Thomas P. Thornton, *Terror as a Weapon of Political Agitation: an internal war* (The Free Press, New York, 1964); str. 71-99

⁶ Robert Friedlander, *Terrorism and the Law: What Price Safety?* (IACP, Gaithersburg, MD, 1981), str.3

⁷ Lester A. Sobel, *Political terrorism* (Facts on File, New York, 1975) str. 3-12

intimidation, for gaining political or tactical advantage, usually to influence a specific target group;⁸

- Politically motivated violence by small groups claiming to represent the masses;⁹
- Unlawful use of force or violence by a group (groups) of two or more individuals, against people or property to intimidate or coerce the government, civil population or any segment of their own, in order to achieve political or social goals;¹⁰
- From the vantage point of the object of abuse, terrorism causes harmful effects on life and health, property and legitimate interests and at the same time performs social disorganization. The violence is often accompanied by physical force that results in injury or death to the objectives of terrorist act. But on its own side it is accompanied by psychological effects and distortion of material values, especially when the terrorist act is followed by a ransom of people that are temporarily detained and are subject to blackmail.¹¹
- Such things said the Geneva Convention from 1937 on preventing and prosecuting terrorism and the creation of the International Criminal Court. These documents were the first to define the concept of terrorism. However, the Geneva Convention of 1949 is well known, but still contains no definition of the word terror.¹²

Features and aspects of international terrorism

⁸ James Poland, *Understanding Terrorism: Groups, Strategies, and Responses* (Prentice Hall, Englewood Cliffs, NJ, 1988) str. 11

⁹ Richard E. Rubenstein, *Alchemists of revolution: Terrorism in the Modern World* (Basic Books, New York, 1987), str. xvi.

¹⁰ US Department of Justice

¹¹ International Convention for Combating Terrorism 1963

¹² Дмитриева Г. К., Лукашук И. И. Становление международной нормативной системы. Москва, 1995. с. 128

Checked from another point - daily or relativistic terms, terrorism is expressed in material loss or destruction of goods, facilities of urban infrastructure, which have vital economic, social, cultural, and effective-media relevance to an environment that is the subject of a terrorist act. Such facilities are usually aircrafts, ships, buildings, office buildings, complexes of the infrastructure.

Often, the destruction of the material goods, although it does not cause human casualties, in theory it is reduced to a terrorist act.

Terrorism as a criminal act may be performed by an individual against another individual (of course if it is a public figure from the political, military and social life of a country), by an individual on a group of people by organized terrorist group against an individual or group of people, and by all the previously listed options on tangible goods.

Modern terrorism often carries a sign of an organized crime. This in turn allows the terrorist act to be treated as criminal offenses, and to the terrorist organizations and their members to apply the applicable regulations of the national criminal codes.

But the usual method of the responsibility command in the execution of a criminal offense in terrorist organizations and terrorist acts are not normally used, so in the most national legislations each member of a terrorist organization or terrorist group should be responsible for all criminal activities that are carried from its side. But by definition there is a clear distinction about terrorist groups, organizations, paramilitary formations, armed groups and military sides in a conflict, although often in reality we are aware that it is used in one way or another or some terrorist organization can become a military site , and thus not liable for the previously conducted terrorist acts.

In the circumstances of terrorist activities, always professional and objective should be analyzed: those who inspire and the

organizers, not just the perpetrators of specific actions or activities can be seen in a broader context. This opens the possibility for coordinated fight against terrorism internationally (rather loosely) level, and thus legal use of political, diplomatic and economic means available to states and community at large.

From the standpoint of subjective characteristics of terrorism - it is a crime, crimes committed with a clear intent and premeditation, the predetermined order, the superior effects of it. So it comes to performing an act with direct intent. In the case of terrorism there is a clear distinction of intent only to kill a person (then it comes to any of the crimes of murder). Normally at the crime of murder there are two sides: a killer and a victim, or rather doer (perpetrator, executor) of the crime and the victim as a subject on which the act is performed.

In the terrorist act, despite the two sides appears a third one and that is public community or superior media effect that would cause the act of murder. From this perspective, the victim arising as an act of suicide in a terrorist act (people bombs, black widows, etc.) are not themselves target but means, because their activities are directed towards achieving pre-set goals (consciously or unconsciously, or instructed by others), or disturbance of the public and intimidate the population or authorities in a country or community. Often the act of the victim of an individual is self promotion of the most religious, political or other beliefs. These living bombs at that moment become antisocial personalities because they manifest indifference to the victims, followed by striking cruelty, for which in this kind of terrorist acts has often many innocent victims, or death of people just because they found themselves in certain time on certain place.

However, the motives of the terrorism are not always so simple that they are not only reduced to violence, gain, revenge. Often in today's circumstances of terrorism can be discussed as politically motivated phenomenon. Although often between

terrorists and ordinary criminals to whom the political demands are a cover to protect their criminal activities (trafficking in narcotics trafficking, weapons, valuables) still according to the rule they are means of manipulating the political and religious extremist organizations.

This thing almost as a rule is used by those who inspire the terrorist actions, but also "democratic institutions" which due to their own interests they formulate the terrorist acts as criminal actions or vice versa. So often appear international terrorist organizations that are concealed under the veil of organized criminal groups established on a wider region (multi-regional groups) or vice versa, due to political interests of the establishment of a certain state, classic criminal groups and criminal acts to be reduced to terrorist activities. Even though, the terrorist acts are frequent and are not time limited, the need for a general definition of this term came from the more common use of the terrorist methods and acts as means of political struggle and the way of influence on specific political processes in a certain society.

Terrorism occurs when society faces a profound crisis in the first place - a crisis of ideology and state legal system.

Frequently, the term terrorism can be reduced to activities and preparations for use of illegal and unlawful means of coercion on the integrity of the person or material goods that want to force a state to accept the solutions imposed from other centers of power. In the political vocabulary such thing is reduced to the term "state terrorism" although in legal terms, treated with respect for international humanitarian and military law this term does not exist (or rather should not exist).¹³

The notion of the so-called "state supported international terrorism" (State supported international

¹³Such actions at least in the broader notion was the intervention of Iraq on Kuwait, although similar parameters it can be applied to the cases: Afghanistan, Iraq, Libya, SR Jugoslavija, Grenada, Georgia, Macedonia and many other places.

terrorism), can be defined as any of the following acts that are conducted by a state:

- Delivery of weapons, explosives or dangerous materials to any people, groups or organizations participating or that will participate in the commission of an act of an international terrorism;

- Execution, preparation or interaction with individuals, groups or organizations who plan or intend to commit a specific act of international terrorism;

- Delivering or providing financial support to individuals, groups or organizations in planning and implementation at that particular moment in the future the specific act of international terrorism;

- Providing diplomatic protection to people who assist or participate in the performance of a specific terrorist act in the mode of international terrorism;

- Providing protection, asylum or avoiding an arrest of people on their own territory, who had previously committed any act which is reduced to the classification of international terrorism;¹⁴

But the international law treats this problem partially if certain centers of power believe that the action of certain countries or international organizations is legitimate and within the laws and contracts then it is not a crime (terrorism) or not reduced to the principles of the responsibility.

Thus the definition of the term "state terrorism" often has different legal connotations and depending on the political circumstances and theoretical understanding of the practice of the legal order, it is differently interpreted.¹⁵

However, for such a thing there is no universal definition, because according to the military law: the use of military force of one (or group) against another state in order to

¹⁴ Антоња Ю.М., „Тероризам“ Москва, 2008г. с.20

¹⁵ Ляхов Е.Т. „Политика тероризма“, Москва., 1997г. с.217

occupy a particular territory is an act of aggression¹⁶. But the question itself arises is whether it has also elements of terrorism, but of course at a higher level. In those circumstances there would be a so-called state terrorism, which is not that familiar to the international law and especially the notion of the international law.

Conclusion

The terrorism today is the most powerful weapon, a tool that is not only used against a particular government, but also the government uses the terrorism to achieve their goals.

The main source of financing the terrorist organizations is the control of drug trafficking, racketeering, prostitution, arms trafficking, smuggling, gambling, etc. However, today the deployment of such activity is possible only in the presence of the structures that "launder" money in the form of controlled banks, companies and manufacturing companies, often in crisis regions of the world where state control is weakened.

The undertaking of the "black" and "gray" economy, with a turnover that is expressed in multibillions and the armies of leaders of organized crime, makes terror masters powerful economic and political-military force. The Intelligence cooperation against terrorism creates a qualitatively new phenomenon of special services to combat terrorism, though often the covert operations, unfortunately, an essential and widely is used as a tool for inter-state struggle.

The main strategic prerequisites for a successful fight against international terrorist organizations and the terrorism in general are:

- Restoration of sustainable peace;
- Blocking of terrorism at an early stage and prevent the formation and development of structures;

¹⁶ A. Cassese, *International Law*, 2003, str.325.

- Avoiding ideological justification of terror under the guise of "protecting the rights of the Nation," "defense of the religion", etc;

- Transfer of control of anti-terrorist activities of the surest security structures to avoid the possibility of interference in their work of any other organ of government.

- No concessions to terrorists or terrorist crash barriers no act to go unpunished, even if it may cause loss of hostages and random people - because experience shows that any successful terrorist action provokes further growth of terror and increases the number of victims.

In practice, very commonly, are used methods for the physical liquidation of individuals, groups or entire organizations. That task is rarely assigned to the usual armed forces in a state (police, army, gendarmerie), because dealing with well-trained people who are members of a terrorist organization requires using appropriate methods, techniques and training people.

But the most important thing is public support and use of legal methods in dealing with international terrorism.

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