

How Should States Fight Terrorism?

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NEIL BRAYSHER, JUN 3 2009

Introduction

Terrorism is as old as the state – literally. Those who study terrorism almost always define it by reference to the state. If we define terrorism with reference to the state it seems obvious the two are linked. Sun Tzu wrote that, “If you do not know others and do not know yourself, you will be imperiled in every single battle.”[1] If we want to fight terrorism, we must understand both state and terrorist; to this end, we should examine how and why terrorism is linked to the state, what the state does and terrorist’s means and ends.

States and Terrorists

According to John Locke, a states *raison d’être* is the protection of citizen’s rights, ruled by law and enforced by a monopoly on legitimate violence[2]; this legitimacy being derived from the consent of the people.[3] Compare this with a common definition of terrorism as “the use of sustained violence by non-state actors against civilians for the attainment of political purposes.”[4]

If we consider the protection of rights to be a “political purpose” for which the state employs violence, then terror groups and states start to look very similar. Both are organised and consist of small segments of the states population, have violence at their disposal and are willing to use it under certain circumstances to attain political ends. Perhaps the question should be “how do terrorists differ from states?”

The answer is legitimacy.

Thesis Statement:

Terrorists lack legitimacy; so long as states have it and terrorists don’t, they will be unable to enforce their inherently political ends. States should therefore fight terrorism by maintaining their legitimacy while preventing, minimising and delegitimising terrorist violence.

Legitimacy?

States can lose their legitimacy. Firstly, we must examine *why* states have a monopoly on legitimate violence and terrorists don’t. Secondly, we should establish terrorist’s means, ends and relationship to the state. From this we can best decide how to fight them.

Legitimacy and How to Lose it:

States govern in the final analysis because they have a monopoly on violence within a territory; this is legitimised by citizen’s consent. There are broadly two grounds on which states can lose this legitimacy.

Firstly, states express what their citizens consent to them doing through the law; should states breach their own laws, citizens may lawfully resist.[5] For example, unlawful discrimination against the catholic minority in Northern Ireland

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meant the British government was held to be illegitimate by a significant minority of the population with the attendant consequences. Secondly, according to contract theorists, citizens give up some of their rights to the state in return for security.[6] Should a government fail to provide this, citizens might withdraw their consent to be governed by it; the Madrid bombings that led to the fall of the government and Spanish withdrawal from Iraq provide a perfect example of this.[7]

Can terrorism ever be legitimate? Working within our definition of terrorist, no. Without laws and a state to consent to or reject, a terror group cannot use violence legitimately. This is to say nothing of the morality of either a state or a terror group deliberately murdering civilians.

Relation to the State:

The striking similarities between a state and a terror group have already been pointed out. Some go further than this, arguing that terror groups are not so much against the state as an alternative to it. For example, nation-state terrorists such as the IRA or ETA were not opposed to governing Northern Ireland or the Basque country – rather, they were implacably opposed to a political status quo and were prepared to use violence, directed at non-combatants, to change it.[8] What these groups lacked was the necessary mass support.

What then are terrorist's means? James Kiras argues that terrorists use violence against civilians, "inspiring fear, drawing widespread attention to a political grievance, and/or provoking a draconian or unsustainable response." [9] Compare this to how a state can forfeit legitimacy – failure to protect its citizens (fear), failure to perform its duties, including adequate respect for minorities (political grievance) and overstepping the bounds of what it may legally do (draconian or unsustainable response.) Terrorists aim, through a variety of means, to destroy a state's legitimacy and hence its mass support. Once a state loses the support of its citizens, terror groups (presupposing a level of popular support) can try to fill the vacuum and enforce their own political ends.

Combating Terror:

The journalist Terry Jones wrote an influential newspaper article deploring the decision of President Bush to declare "war on an abstract noun." [10] But this, Phil Bobbitt argues, is precisely what states should do. Both agree that states have no realistic way to permanently eradicate terrorism; as a corollary, if states want to exist they're going to have to live with it. [11]

What do terrorists do? They terrorise, enforcing their political objectives through fear of violence. The UK, protected by one of the most effective internal intelligence services, MI5, [12] considers an attack on London (before and after 7/7) to be inevitable. [13] If violence against civilians designed to create an atmosphere of terror is inevitable, then a war on terror suddenly makes a lot of sense.

Not that this has to be a conventional war. Bobbitt continues with the theme in a chapter titled "Victory without Parades" (a reference to the victory parades marking the end of the first and second world wars), arguing that the kind of victory states seek isn't a formal surrender – both he and Jones believe this kind of victory impossible. Instead, a consensus has emerged that states today seek preclusive victories, preventing or minimising damage by terrorism. [14]

War Aim: The Status Quo

It is a recurring tenet of strategic thought that wars are fought with a clear aim in mind or they are lost. What are – or should be – states war aims vis-à-vis terrorism? [15]

As the complete elimination of terrorism is clearly unfeasible, states should instead aim to preserve the status quo – government by consent in an environment where terrorism is unable to generate sufficient fear to significantly alter this. This can be achieved in ways; firstly, preventing terrorists from creating sufficient havoc to alter the status quo. Secondly, putting mechanisms in place to minimise the damage done when an attack inevitably succeeds; and

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thirdly, depriving terrorists of the popular support they so desperately need without compromising the states own legitimacy – though these areas are interrelated and a separation is somewhat artificial.

Prevention:

There is a broad consensus (Blair (Ian), Bobbitt and Clarke amongst others) that terror attacks cannot be prevented, but significant disruption can be achieved in certain areas, including:

- Ø Denying safe havens to terror groups, such as Afghan training camps.
- Ø Covert or military action to detain or kill terrorists.
- Ø International counter proliferation measures to keep chemical, radiological, nuclear and (especially) biological weapons out of terrorist arsenals.
- Ø The collection of information necessary to achieve the above.

The point of disruption is to significantly lower the upper threshold of violence terrorist groups are capable of inflicting.

International counter proliferation measures are difficult to implement; problems with the NPT and the near-success of the Khan highlight this.[16] However, there is a lot of incentive for otherwise uncooperative great powers – the US, Russia and China for example – to work together to controlling WMDs; should a weaponised form of anthrax or avian flu, for example, fall into the hands of al-Qaeda it could be used by a homegrown terror cell in the US, Chechen rebels in Russia or Islamist separatists in Xinjiang.[17]

Limitation:

When prevention fail states must limit the damage and protect their citizens as well they can. Limitation depends to an extent on the success of prevention – for example, limitation of the 7/7 attacks mostly involved a swift response by civil emergency services and rapid reconstruction of transport routes to minimise disruption to businesses. Had a radiological or biological device been detonated instead, a very different response would have been necessary.

The response of senior non-political US security officials to 9/11 was to call for significant investment in this area with particular focus on improving federal-state communication, more money for state emergency services and hospitals, and the stockpiling of resources around population centres.[18] Some have pointed out that when a state is called on to respond to a terror attack or a natural disaster (the debacle at New Orleans, for example), the source should make no difference until the immediate crisis is over – what matters is a states ability to protect it's citizens and hence legitimacy.[19]

Deprivation:

If terrorism cannot be legitimate, why does it have a lot of popular support? The definition of state in Lockean terms may be English in origin, but one part – it's stress on the rule of law – resonates with many state and non-state actors. China, for example, is hardly analogous to a 17th century Englishman's conception of liberalism but the concept has gained considerable support.[20] Similarly, Ayman al-Zawahiri, released a video statement in 2006 largely concerned with the concept and alleged double standards, both within the law and alluding to breaches of the law by western states.[21]

This comes back to our earliest point. Action within a legal sphere means legitimacy; failure to act legally will forfeit this legitimacy. There is a very simple corollary; act scrupulously within the law and the chances of a state forfeiting legitimacy, a fundamental goal of terrorism, are extremely narrow.

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One of the reasons states act outside the law (particularly international law) is they feel this constrains necessary action.[22] However, other authors have argued that international law in its current form has evolved to fit the needs of states (right of intervention in tension with state sovereignty, for example.) Most states – *especially* the powerful – have every reason to legitimise anti-terror initiatives (see prevention). Overhauling international law where necessary to create a system robust enough to deal with terrorism and WMD proliferation yet firmly based on “...human rights and the rule of law – something that people can be *for* – to accompany the important but partial vision of being *against* terrorism”[23] seems to solve this intractable problem.

This will not convince everyone – one cannot imagine Zawahiri accepting secular law or the rIRA a divided Ireland. However, denying terrorist groups the legitimacy they so desperately need while maintaining ones own will isolate those who must be fought from those who can be negotiated with.

Conclusion:

In 1990, communism in Europe and Russia began to unravel. Why? Because people the world over had lost faith in it as a credible system of government. Similarly, states will not defeat terror groups by force but by preventing and limiting their capacity to employ violence while building a consensus against them and, crucially, depriving them of support and maintaining their own legitimacy by strict adherence to the rule of law.

It should be noted that this essay has focused on the political and security dimensions of terrorism while largely ignoring social and economic factors due to constraints on length and the wording of the title; these are important factors merit further study in their own right.

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[2] Max Weber cited in *The Globalisation of World Politics* (pg 100) by John Baylis, Steve Smith and Patricia Owen; published Oxford University Press 2008.

[3] David Boucher and Paul Kelly, *Political Thinkers from Socrates to the Present* (pgs 192-6) Oxford University Press 2003.

[4] A condensed version of the definition found in John Baylis, James Wirtz, Colin Gray and Eliot Cohen's *Strategy in the Contemporary World* (pg 165) Oxford University Press 2007.

[5] For example, the common law right of a private citizen to resist an unlawful arrest; see Mortimer & Sanford Kadish, *Discretion to Disobey* (pgs 106-8) Stanford University Press 1973.

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[20] Mark Leonard, *What does China think?* (Pgs 64-66, 71-74) Fourth Estate 2008.

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[22] Baylis et al, *Strategy in the Contemporary World* (pgs 108-109).

[23] Bobbitt, *Terror and Consent* (pgs 356 & 394-6).

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