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How Governments Twist Terrorism

By Philip Giraldi

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The *Washington Post* reports that "terrorism trend lines are 'worse than at any other point in history.'" But what is terrorism? It has frequently been pointed out that "terrorism" is a tactic, not an actual physical adversary, but it is less often noted that a simple definition of what constitutes terrorism is hardly universally accepted, while the designation itself is essentially political. The glib assertion that one man's terrorist is another man's freedom fighter fails to capture the distinction's consequences as the terror label itself increasingly comes with a number of legal and practical liabilities attached. Describing an organization as terroristic in order to discredit it has itself become a tactic, and one that sometimes has only limited connections to what the group in question actually believes or does.

The bone of contention in defining terrorism is where to draw the line in terms of the use of violence in furtherance of a political objective. In practice, it is generally accepted that state players who employ violence do so within a social framework that confers legitimacy, while nonstate players who use political violence are ipso facto terrorists, or at least susceptible to being tagged with that label, which confers upon them both illegitimacy and a particularly abhorrent criminality. But some on the receiving end of such a Manichean distinction object, noting that the laws defining terror are themselves drawn up by the governments and international organizations, which inevitably give themselves a pass in terms of their own potential liability. They would argue that established regimes will inevitably conspire to label their enemies terrorists to marginalize both resistance movements and internal dissent in such a

way as to diminish the credibility of the groups that are so targeted. Turkish President Recep Tayyip Erdogan has recently been doing precisely that, and one might reasonably argue that government use of violence is often in practice indistinguishable from the actions of nonstate players.

Some common dictionary definitions of terrorism include engaging in "the systematic use of terror," surely an indication of the inscrutability of an issue when the word must be used to define itself. The United Nations has been unsuccessfully negotiating a Comprehensive Convention on International Terrorism since 2002 that would define terror as causing death or serious injury or destroying or damaging public or private property "to intimidate a population, or to compel a Government or an international organization to do or abstain from doing any act." The United States Federal criminal code uses similar language, as does the Patriot Act, with the key elements being the use of violence or physical destruction to "intimidate or coerce" a civilian population or an existing government.

Governments are aware of what can be accomplished by invoking the word "terrorism." The diplomacy-averse United States frequently hides behind the label, as it is prohibited by law from negotiating with groups so-labeled, and thereby avoids having to confront the possible legitimacy of what they represent. And it also justifies a uniformly violent response, which is invariably described as self-defense.

Fourteen years ago the "global war on terror" was used to justify wholesale American intervention in predominantly Muslim countries. A number of European countries, including France and Britain, have followed the example of the two Patriot Acts by introducing antiterrorism legislation that provides special police and intelligence service authorities that limit normal legal protections in terrorism cases. The broadly written laws have largely rendered the authorities immune from either regulation or prosecution, and governments in the West have generally been reluctant to allow any third-party inquiries into the related behavior of military and police forces. In the United States the state secret privilege, originally intended to prohibit the exposure of classified information in court, has been used to completely derail judicial proceedings relating to offenses allegedly committed by the government in terrorism cases.

And critics of the essentially hypocritical double standard used in defining terrorism certainly have a point. One might reasonably argue that the use of drones, in which "signature" targets are killed because they match a profile, fits comfortably within the definition of terrorism. During 2003-4, American Army and Marine forces in Fallujah sometimes shelled and bombed targets in the city indiscriminately and were certainly responsible for hundreds of civilian deaths. The Israeli Defense Forces killed thousands of civilians in two incursions into Gaza as well as several attacks on Lebanon. There was no declaration of war to justify the use of armed force in either case, and independent observers noted that many of the civilian casualties could have been avoided, normally a defining factor that makes an incident terror. Both Israel and the United States turned the tables on the situation by referring to their opponents and victims as "terrorists." There has been no accountability for the deaths because it was two governments that carried out the killing.

In a world seemingly obsessed with terrorism it was inevitable that something like an anti-terrorism industry [9] would grow dramatically. Every television and radio network has its own stable of pundits who pontificate on every violent incident, and there also are well-compensated freelancers, who describe themselves as experts, such as Evan Kohlmann and Steve Emerson. Emerson recently had to apologize after claiming that Birmingham, England had a number of no-go areas controlled by local Muslim extremists.

It should be no surprise that lawyers have now also gotten into the game. In 1996 Congress passed the Anti-Terrorism and Effective Death Penalty Act, which allows victims of terrorism to file civil suits in federal and state courts against sponsors or supporters of terrorism. Once you have a group or individual labeled as terrorist, or providing assistance to terrorists, there are a number of options you can pursue. The burgeoning antiterrorism industry appears to be in some ways linked to the increasing employment of Lawfare, which uses the legal system to wage war by alternative means, making it possible to obtain a favorable judgment and damages from the assets of a recognized terrorist organization. Such litigation benefits from favorable legislation in the United States that makes terrorism a worldwide crime subject to U.S. judicial review.

Recent court cases have involved both states that allegedly sponsor terrorism or actual organizations that are now parts of governments that either currently or at one time were perceived to be terrorists. Many of the groups targeted are enemies of Israel, and the Israeli Lawfare center Shurat HaDin is most active in pursuing such litigation. In a recent case in New York City, the Palestinian Authority was successfully sued by a group of Israelis and Americans over terrorist attacks that took place in Israel in 2002-4. If the appeal fails, the Palestinian Authority will be required to pay $1 billion in damages and will be bankrupted, with negative consequences for the United States, which has been seeking to create a viable government on the West Bank.

The U.S. Department of State identifies four countries as state sponsors of terrorism, making them prime targets for sanctions and other legal action. They are Cuba, Sudan, Syria and Iran. Cuba is an anomaly as it has not threatened anyone in decades but remains on the list due to the deep passions within America's politically powerful Cuban Lobby. Sudan likewise should not be so designated, as even the U.S. government admits that it is cooperative on terrorism issues.

This leaves Syria and Iran, both of which are regarded as state sponsors of terrorism even though both are themselves victims of terrorist attacks carried out by groups supported by the United States. They are on the list because they harbor or cooperate with Hezbollah, Hamas, and Palestinian Islamic Jihad. All three groups consider themselves to be resistance movements against the illegal Israeli occupation of Palestine, but Israel regards all three as terrorists, a view shared by the United States on the state department's Foreign Terrorist Organization list. That viewpoint is not necessarily shared by many European governments, which regard the organizations as having evolved into legitimate political parties. There are also thousands of individuals and groups considered to be terroristic or criminal, collected by the U.S. Department of Justice on its Special Designated Nationals List. Individuals and organizations on the list have their assets blocked and are subject to other punitive action by the United States government.

Being designated by the Department of the Treasury or state does not necessarily mean that someone or some organization was actually involved in terrorism. The Texas-based Holy Land Foundation, an Islamic charity, was declared a terrorist organization in 2001. Its officers were convicted and imprisoned in a 2008 trial because the Treasury Department determined ex post facto that it had given money to Hamas before that group was itself named as a terrorist organization.

Inclusion on the State or Treasury lists can mean that there is solid evidence of wrongdoing, but it can also represent mere insinuations or a strong desire to see a group singled out for punishment. In any event, once a group or person is designated for a list, it is difficult to get off. Organizations that have not engaged in terrorist activity for many years remain on the list while other groups that are active escape censure. Recently, the Mujaheddin e Khalq (MEK), an Iranian terrorist group that killed six Americans in the 1970s, was removed from the list under political pressure from Congress and the media. Again, Israel was involved. MEK is an enemy of the current government in Tehran and is itself an important component of the Israeli intelligence effort against Iran, having been involved in the fabrication of information suggesting that Iran has an active nuclear weapons program as well as participating in the assassinations of Tehran's scientists.

So what terrorism actually consists of very much depends on one's perspective, rendering the word itself largely meaningless. But those who are listed as terrorists experience real consequences even accepting that the designation is both selectively applied and politicized. The United States and Israel in particular use the terrorism label to demonize opponents, drum up fear, and generate popular support for security policies that might otherwise be unpalatable. They also justify their own behavior by asserting that they occupy the moral high ground in the defense of the world against terror, a claim that certainly should be regarded with considerable skepticism.