

# On the Language of Terrorism and International Law\*

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*"You cannot go to war against an abstract noun"*

*Sir Michael Howard, British historian, BBC interview, November 7<sup>th</sup> 2001*

## Introduction

One year on from the attacks on the World Trade Center and the Pentagon, American military forces continue their actions in Afghanistan, and are now gearing up to attack Iraq. The "war on terrorism" is frequently cited by American political leaders and news commentators as a reasoned and sufficient justification for both the current and future military deployments. But at the very moment this justification is being proffered, dissenting voices can be heard. Opposition towards Washington's stance on the employment of force and a questioning of the very notion of "terrorism" are two of the constant themes raised by objectors. In this paper I want to concentrate on the second of these two themes, focusing on the difficulties associated with accurately characterizing and defining the concept of "terrorism," and the resultant limited capacity of international lawmakers to formulate anti-terrorist legislation.

One cannot go far in the social sciences without stumbling over definitional problems and ordinarily such disputes as there are remain purely theoretical matters. Scholars will make clear their definitions and set their parameters as a preliminary to launching into their theses. However, when handling the notion of "terrorism," the implications of definitional problems spill outside the normal boundaries of academic discourse. Politicians and diplomats when trying to frame "anti-terrorist" legislation or build "anti-terrorist" international

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coalitions, security experts when trying to shape “counter-terrorist” measures and journalists when trying to report events on the ground, all face the problem of pinning down what exactly they mean when they use the term “terrorism.”

Hopefully, my interpretation will go some way towards clarifying the difficulties associated with this pinning down and, further, shed some explanatory light upon the apparently crippled capability of international law to operate effectively when dealing with so called “terrorist acts.”

### **Terrorism as an Essentially Contested Concept**

To begin with, let me state that at the core of my approach is the premise that the concept of “terrorist” action falls into that category of ideas labelled as ineradicably evaluative, or, to borrow the famous phrase coined by philosopher W.B.Gallie, “essentially contested.”<sup>(1)</sup>

Elaborating, to say that “terrorism” is a contestable concept is to say that the criteria for designating any action as “terrorist action” are open to contest. To make the claim that such a concept is *essentially contested* denotes that there is no definitive standard that can be turned to, to adequately settle this contest.

Philosophically, the main implication of such an approach is the rejection of all forms of universalism. Such universalist props as reason, natural law, the metaphysician’s ideals and the believer’s theological nostrums, whilst perhaps complete and coherent systems in themselves, can only provide us with competing standards, which, ultimately, are all equally inadequate as final explanatory frameworks. They can be considered to be, in William Connolly’s apt description, “transcendental provincialism; [treating] the standards with which they are intimately familiar as universal criteria against which all other theories, practices, and ideals are to be assessed. They use universalist rhetoric to protect provincial practices.”<sup>(2)</sup>

### **Common Elements in the Language of Terrorism**

However, although a definitive standard for evaluating “terrorism” is rejected, the path to a usable definition is not entirely blocked. Following Wittgenstein’s dictum to look for use rather than meaning, the various contexts

in which the designation “terrorist” is applied do have certain common elements. For a start, the term is always used to refer to actions and actors that have some socio-political agenda. Adapting from Clausewitz, one could say that “terrorism” is another manifestation of, “the continuation of politics by other means.”<sup>(3)</sup> Yet this alone encompasses too much, and without further refinement an adequate definition will not be found.

An examination of the specific events that get labelled “terrorist” reveals that functionally, “terrorism” has become a catchall term used to describe a whole host of different types of behaviour. The term has been extended to encompass widely disparate actors and actions, and has been applied to both governments and their opponents.

Let us, for example, consider the current situation in the disputed lands stretching from the Mediterranean’s eastern shores to the Jordan River. On the one hand, a Palestinian suicide bombing of an Israeli Army checkpoint may appear to those who carry it out as an heroic military stand, worthy of praise and emulation, but it will certainly strike others, who do not share the Palestinians’ set of political values, as a futile and criminal act and, as a mark of condemnation, they will label it “terrorism.” On the other hand, the Israeli government’s policies, justified as essential for the maintenance of security, like the use of military forces to occupy Palestinian land, defend Jewish settlements in the occupied territories and assassinate opponents, are attacked as forms of “terrorism” by Palestinians and others who are opposed to the legitimacy of such policies.

It is certainly the case that a list of the types of non-state action that most often get labelled as “terrorist;” bombings that destroy lives and property, assassinations/executions, kidnappings/hostage takings and various other forms of intimidation, can be matched item by item with a similar list of operations undertaken by states; the confiscation, occupation and destruction of property, killings by death squads, state sponsored executions, internment without trial, torture, threat, and even bombings, and these actions can, according to the same rationale, be labelled as “terrorism” by the state.<sup>(4)</sup> In other words, the term “terrorism” is attached to a broad range of actions taken by both state and non-state actors and, consequently, no amount of semantic gymnastics will

provide an adequate, uncontested definition that can relate solely to events that have been given the label “terrorist.”<sup>(5)</sup>

The failure to identify a clear definition that can be applied to specific actions illustrates the crucial point that political actions can have no single significance. Significance is determined not only by what the actors intend but also by what their actions are interpreted to mean by others irrespective of the actors' intentions, and those others, the interpreters, may ground their interpretations of significance upon a political value system or systems quite different from that held by the actors.

This being the case, a second common element in the language of “terrorism” may be noted thus; that when the term “terrorism” is applied to any specific action, one finds endless disputes over appropriate meaning and definition. One academic study conducted in the early 1980s cited 109 different definitions of “terrorism” advanced by scholars between the years 1931 and 1981.<sup>(6)</sup> As if to distil an essence of meaning from these definitions, the author of the study isolated the following recurring elements in the order of their statistical appearance in the definitions: violence, force (appeared in 83.5% of the definitions); political issues (65%); fear, emphasis on inducing a sense of terror (51%); threats (47%); psychological effects and anticipated reactions (41.5%); discrepancy between the targets and the victims (37.5%); intentional, planned, systematic, organized action (32%); methods of combat, strategy, tactics (30.5%).

Does the presence of recurring elements in the various definitions, draw us any closer to identifying specific actions upon which we can unambiguously pin the term “terrorism.” I would argue that it does not, for the simple reason that designating any action as “terrorist action” implies a moral judgement on the part of the designator.

This brings me to the third common element observable in every contemporary context where “terrorism” is designated. In the modern world the term “terrorism” is always a pejorative, and, as such, it is a designation swiftly turned to by those wishing to score propaganda points. “Terrorist” is a useful word of abuse for your enemies, and the term's offensive, indeed criminal, connotations create such political liabilities that nobody admits to

being a “terrorist” and “terrorism” is universally condemned. As the noted “terrorism” expert Brian Jenkins, has pointed out, if a group can successfully attach the label “terrorist” to its opponents then, in some sense, it has succeeded in having others adopt its moral and political point of view.

The stigma that is now attached to “terrorism” can be contrasted with earlier periods. For example, at the turn of the century, the Russian socialist revolutionaries were proud to call themselves “terrorists.” They had a “terrorist” arm called the “Terrorist Brigade” and were quite open in their intent to terrorize Russia’s ruling elite through a policy of selective assassination.

Ironically, given the current situation in the Middle East, probably the last group to proudly declare itself as “terrorist” was *Lehi* (the “Stern Gang”) who fought against the British for Israel’s independence in the 1940s. “*Mekhabbel*,” is the word, translated as “terrorist,” in modern Hebrew and used today to describe those organisations and individuals who have taken up arms against the Israeli state’s policy of expansion into Palestinian territories. It is exactly the same word that members of *Lehi* used proudly to describe themselves in their armed guerrilla struggle against the British. In those days it was roughly translated as “saboteur.” The meaning changed from neutral, “saboteur,” to extremely negative, “terrorist,” in the early days of the Israeli state, after the battle for independence had been won, and what had been won then had to be protected from others seeking to destroy the new state by the same means that were used in achieving statehood.

Drawing together the three identified common elements in the language of “terrorism” – that it is a term applied to actions with a socio-political agenda, that designating “terrorist” action is always disputed and that use of the designation always holds an unambiguously pejorative connotation – it would seem that the accusation of “terrorism” perhaps reveals more about the attitude of the accusers than it does about the actions of the accused. In fact, I would go further and say that the term “terrorist” can do little other than describe this relationship between accuser and accused and, as such, it can only have relative

significance. If the designation has any undisputed, descriptive quality at all, it is in illustrating the disapproval that accusers have for that which they accuse. There can be no absolute definition independent of the accuser's point of view. For this reason, definitions of "terrorist" actions will always remain contested. In other words, "terrorism," like beauty, is in the eye of the beholder.

An accurate, if somewhat restrained, phrasal synonym might be "in my opinion worthy of condemnation." It would follow, then, that when politicians and social commentators denounce "terrorism," they make no more sense than if they were complimenting the admirable or praising the praiseworthy. The object is implied by the verb, the statement is a tautology.

### Context and Contestability

"Terrorism's" contestability recently took center-stage at a press conference in the Syrian capital, Damascus. British Prime Minister, Tony Blair had gone to Damascus to try to win the support of Syria's President Bashar al-Assad, for an international coalition against "terrorism;" what Mr Blair got was a lecture. The British newspaper *The Independent*, reported the press conference in the following terms:

*President Bashar al-Assad gave Mr Blair a dressing down, condemning the bombing of Afghan civilians and praising Palestinian armed groups as freedom fighters. The prime minister had to stand and listen as the Israelis were described as state terrorists and the west was accused of double standards and an inability to distinguish terrorism from self-defence. ... . President Assad told the press conference the military action in Afghanistan was mistaken. "We cannot accept what we see every day on our television screens – the killing of innocent civilians. There are hundreds dying everyday." He condemned terrorists, he said, "but we should differentiate between combating terrorism and war." ... The US and Britain have for many years been concerned about Syria's support for armed militant groups fighting Israel – including Hizbullah, Hamas and the Popular Front for the Liberation of*

*Palestine. Mr Assad defined these groups as freedom fighters. "We, and I personally, differentiate between resistance and terrorism. Resistance is a social, religious and legal right that is safeguarded by UN resolutions." ... "Israel is proving every day it is against peace, and the desire for peace cannot co-exist with a desire for killing. The list of assassinations cannot be an expression of a desire to bring peace and stability in the region. Israel is practising state terrorism every day."<sup>(7)</sup>*

The extent to which the conceptions of "terrorism" held by the West and by the Arab world diverge was well illustrated by the Assad-Blair press conference, and once more bore out the maxim that, "context is all in the analysis of political violence."<sup>(8)</sup>

### **Acts of War or Criminal Acts?**

The historian Conor Cruise O'Brien, astutely elaborates on the political and ideological connotations intrinsic to any definition of "terrorism" by noting, "Those who are described as terrorists and who reject that title for themselves, make the uncomfortable point that national armed forces, fully supported by democratic opinion, have in fact employed violence and terror on a far vaster scale than anything that liberation movements have as yet been able to attain. The 'freedom fighters' see themselves as fighting a just war. Why should they not be able to kill burn and destroy as national armies navies and air forces do, and why should the label 'terrorist' be applied to them and not to the national militaries?"<sup>(9)</sup>

The question is thus begged: should so-called "terrorist acts" be regarded as a form of war or are they, as those who condemn them contend, merely crimes?

Ilich Ramirez Sanchez, better known as Carlos the Jackal, one of the founders of the Popular Front for the Liberation of Palestine, clearly believed the former when he proclaimed at his trial in Paris, in December 1997, "I am not a common criminal ... . I am a revolutionary combatant."<sup>(10)</sup> His clear implication was that he should be found innocent of the criminal charges brought against him because of his special status as a combatant. His claim is not an unusual one, indeed most groups that have the label "terrorist" attached

to them would seem to regard themselves as being in a state of war and justify their actions on that basis.

Nobody is a “terrorist” who “stands for a just cause,” Yasir Arafat famously told the United Nations.<sup>(11)</sup> If we accept Arafat’s statement then only to the extent that everyone can agree on the justice of a particular cause is there likely to be agreement that an action is or is not a “terrorist” action.

### **Who is the Enemy?**

Where does this leave us? In a situation where actions labelled as “terrorist” from whatever source, are excused by their perpetrators as legitimate acts of war taken by combatants against a perceived enemy.

One of the most disturbing aspects of this rationale is that it does not draw any distinction between legitimate targets and those that should be left alone. Anyone and anything can be made out to be a limb of the perceived enemy and thus attacked. Those who have employed this rationale, have commonly reasoned that all members of a group or class regarded as enemy are, ipso facto and indiscriminately, involved in its guilt. It is an idea that goes back at least as far as revolutionary France and Louis de Saint-Just’s argument that Louis XVI should be brought to trial since, “no one can rule guiltlessly.”<sup>(12)</sup> In other words, to rule is to be guilty. From this position, it only requires the identification of a ruling class to set the stage for and justify persecution and punishment on a broad scale. This grim conclusion was indeed born out by subsequent developments in France as the revolution descended into the bloody Reign of Terror.

Interestingly, it is from this bloody period of French history that the concept of “terrorism,” originally a French word,<sup>(13)</sup> became a part of the English political language and, ironically given its current common usage applied to persons in conflict with governments, it originally referred to the activities of a government, specifically, the French revolutionary government and its policy of intimidation. This government orchestrated French Terror was assigned the purpose of purification. Maximillian Robespierre proclaimed, “either virtue or the terror,” “terror” was the tool to purge the land of the corrupting influence of the monarchy. The policy was carried out by “revolutionary tribunals,” a type



of people's court that operated according to no previously recognized legal rules. The accused were "enemies of the people" possessing "impure hearts" and their fate at the guillotine was intended as an edifying lesson for the public to show that the normal conceptions of guilt and innocence could not be applied.<sup>(14)</sup>

In the modern world, also, one does not have to look very far to find similarly grotesque persecutions. Social revolutionaries have targeted and exterminated "class enemies," those believing themselves privileged with sacred favour have done the same to "heretics," separatists have condemned "imperialists" and reactionary punishment has been directed at eliminating "enemies of the state." Violence has even been used by groups organized around single issues, who have proved increasingly willing to brand as "guilty" all those who do not appreciate and support the righteousness of their particular cause.<sup>(15)</sup>

In the case of contemporary, radical Islamic movements, their belief systems make no allowance for a separation between religion and the state. God's law, the *sharia*, ought to be the same as the state's law. Therefore, Muslim politicians who attempt to frame their own laws and citizens who consent to live by those laws are apostates, and the punishment for apostasy in Islam is death.

### **Problems in the Formulation of International Law**

If the only consistent application of the term "terrorism" is as an expression of condemnation directed at certain, normally violent, actions taken in accordance with some socio-political agenda, then we begin to get a picture of the difficulties facing UN legislators who attempt to formulate law that deals specifically with "terrorism." Encapsulating these difficulties, the eminent international lawyer Frits Kalshoven stated at the 1985 meeting of the American Society of International Lawyers, "I am acquainted with the use of the term [terrorism] in the media or by the police and even in legal writings, and often I can make a fairly shrewd guess what impression the user wishes to convey. But this is a far cry from saying I would be able to connect the term with a specific legal notion."

Since there is no detached point of view from which we can expect definitive

answers to the core questions about the nature of “terrorism,” the only way in which unanimity of opinion can be reached to allow the United Nations to pronounce on the issue is by stripping all of the meaning content from any such pronouncements.

A classic example of this was the case, on December 9th 1985, when the United Nations General Assembly, by a vote of 118–1 with 2 abstentions,<sup>(16)</sup> adopted Resolution 40/61 condemning “as criminal, all acts, methods and practices of terrorism wherever and by whomever committed.” Symptomatically, the resolution failed to define precisely what those “methods and practices of terrorism” were. It therefore avoided the tricky political question of attempting to differentiate permissible violence from unjustified violence. That is, it avoided the very issue that lies at the center of debate about what so-called “terrorism” encompasses.

On the international stage, many governments in the Developing World, particularly those in Africa and Asia, have not cooperated with efforts, mostly American and European, to identify and combat phenomena labelled as “terrorism,” through the international legal framework. A major reason for their reluctance is that they see such “anti-terrorist” efforts as part of a broader campaign aimed at outlawing the irregular methods of warfare that, in the twentieth century, were developed during the civil war in China and the post-1945 anti-colonial struggles in Asia and Africa; critical conflicts that resound as deeply in the liberation consciousness of the Developing World as the French Revolution does in the consciousness of the West. Not a few of the Developing World’s leaders today, including perhaps the world’s most revered elder statesman, Nelson Mandela, were at one time the leaders of insurgency groups and called “terrorists” themselves. It stands to reason, therefore, that these leaders are not prepared to countenance a definition of “terrorism” that includes the other means of struggle – “wars of liberation” or guerrilla warfare – which they once employed or which are now being employed on behalf of causes that they support.<sup>(17)</sup>

### Routes Around Relativism

Without any consensus on whether there can be acceptable acts of violence, attempts to legislate against something called “terrorism” will always be rendered difficult and open to challenge by those who do not share the world view and political values of the legislators.

Be that as it may, it has not prevented the international community from attempting to address the problem of “terrorism” through international law. There have been two main routes around the obstacle of relativism. One route has been to avoid definitions altogether and, instead, has concentrated upon the specific tactics often adopted by those labelled as “terrorists,” formulating legislation in a piecemeal fashion to deal with problems as they have arisen. The 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, promoted and drafted as a direct result of the hijacking of the Italian cruise ship, *Achille Lauro*, is one example of this kind of legislation.<sup>(18)</sup>

The second route around relativism has been to focus upon the criminal nature of the so-called “terrorist” acts. Homicide, kidnapping, threats to life and the wilful destruction of property appear in the domestic criminal codes of every country. Those accused of terrorism may claim, like Carlos, to be soldiers at war, whose combat status privileges them to break ordinary laws against killing, but even in war there are rules that outlaw the use of certain weapons and tactics.

The laws of war grant civilian non-combatants who are not associated with valid targets at least theoretical immunity from deliberate attack. They prohibit taking hostages. They prohibit violence against those held captive. They define belligerents. They define neutral territory. These rules are sometimes violated and, in these cases, those responsible for the violations become war criminals. The violations themselves in no way diminish the validity of the rules. In this way, those labelled as “terrorists,” who assert that they are waging war, face the prospect of having many of their actions outlawed as war crimes.

It is this route through the laws of war that international lawyers are now taking in their efforts to find applicable legal tools with which they can confront

those actions and actors labelled as “terrorist.” They suggest that rather than trying to negotiate new treaties dealing specifically with the amorphous concept of “terrorism,” which are unlikely to be ratified or enforced, nations should apply the laws of war, to which almost all have agreed. In this case the law would be used as though it were dealing with soldiers who commit atrocities. Most countries have now agreed to either bring to trial themselves or else try to extradite soldiers who commit atrocities in international armed conflicts. So that under the laws of war approach, actions condemned as “terrorist” would be those actions that infringe against the laws of war and thus constitute war crimes. In this way, efforts are being instigated to deal with so called “terrorist” acts within an already established legal framework.

International law makers will only ever stumble if they insist upon clinging to an unhelpful vocabulary that draws clear semantic boundaries around a notion of “terrorism.” Legislators need to recognise that there can be no functional semantic distinction between “terrorism” and those other oft used genera, guerrilla warfare and conventional warfare. Hence, international legislation crafted specifically to confront “terrorism” is unworkable. If this means that the comfortable categories of war and peace become more ambiguous, then so much the better. For, as a result of the destructiveness of modern weaponry and the fragility of parts of our modern technological civilization, contemporary societies are, increasingly, going to have to face up to and defend themselves against violent challenges even during periods when no obvious war is occurring.

### **Washingtonspeak and the Desire to Escape Politics**

Washington has placed the United States on a war footing. This accurately reflects the level of threat that is being faced. But to identify the enemy as “terrorism” is a deliberate abstraction for propaganda purposes.

To declare a “war on terrorism,” as George W. Bush has done, is to deny the context dependent, contested nature of “terrorism.” To vow, as US Secretary of State, Colin Powell did the day after the September, 2001 attack on the World Trade Center, “to go after terrorism and get it by its branch and its root” is to

invite accusations of hypocrisy by those who do not share Washington's worldview.

It is hardly surprising that in recent newspaper reports we should read the voices of public dissent like the Lebanese construction manager, who told *The Independent's* Robert Fisk,

"I'm sick of hearing about terrorism, terrorism, terrorism ... when you have enemies, they are 'terrorists' or 'madmen' or 'evildoers'. When we have enemies, we are asked to compromise with them. You have Bin Laden. We have Sharon – who is your friend and whose hand Mr Bush shakes.<sup>(19)</sup>"

And the Afghani doctor,

"If Osama acted like a terrorist, then so are the Americans acting like terrorists now."<sup>(20)</sup>

When President Bush presents foreign governments with the dichotomy, "Either you are with us or you are with the terrorists," he is attempting to impose Washington's lexicon upon the international community. For Bush, there is nothing contestable about who are the "us" and who are the "terrorists."

William Connolly has described this "desire to expunge contestability" as expressing "a wish to escape politics. It emerges either as a desire to rationalize public life, placing a set of ambiguities and contestable orientations under the control of a settled system of understandings and priorities, or as a quest to moralize public life thoroughly, bringing all citizens under the control of a consensus which makes politics marginal and unimportant."<sup>(21)</sup>

The Bush administration, through its unequivocal rhetoric seeks to depoliticise the whole issue of "terrorism" in order that its priorities and its morality become the consensus viewpoint. Naturally, those whose worldviews have been forged in very different environments, i.e. most of the world outside of the United States, are not about to submit to this Washingtonspeak.

## Notes

- (1) W.B. Gallie, "Essentially Contested Concepts," *Proceedings of the Aristotelian Society*, 56, 1955–56, pp. 167–98.
- (2) William E. Connolly, *The Terms of Political Discourse*, Princeton University Press, N. J., 1983.
- (3) Carl von Clausewitz, *On War*, ed. and trans., Michael Howard and Peter Paret,

- Princeton University Press, Princeton, N. J., 1976, p. 69.
- (4) Geoffrey Best, *War and Law Since 1945*, Clarendon Press, Oxford, 1994, p. 221.
  - (5) In 1984, a committee of the French Senate came to the same conclusion stating that “any definition is practically guaranteed to fail.”
  - (6) Alex P. Schmid, *Political Terrorism*, North Holland Publishing Co., Amsterdam, 1983, pp. 119–58.
  - (7) *The Guardian*, November 1<sup>st</sup> 2001.
  - (8) Paul Wilkinson, “Fighting the Hydra: Terrorism and the Rule of Law,” *Harvard International Review*, Vol. 7 (May–June 1986).
  - (9) Conor Cruise O’Brien, “Liberty and Terrorism,” *International Security* 2, Fall 1977, pp. 56–57.
  - (10) Quoted in *The Electronic Telegraph*, December 18th, 1997.
  - (11) Speech to the United Nations General Assembly, November 13th, 1974.
  - (12) Speech to the National Convention in Paris, 13 November 1792.
  - (13) *Terrorism* derives from the Latin verb *terrere*, meaning “to tremble,” and the French suffix, *isme*, meaning “to practice.”
  - (14) *Encyclopedia of Government and Politics*, Vol. 2, Mary Hawkesworth and Maurice Kogan, Eds., Routledge, 1992, p. 1061.
  - (15) The activities of the more extreme elements among the anti-abortion, animal rights and environmentalist movements come to mind immediately.
  - (16) Cuba dissented, Israel and Burkina Faso abstained.
  - (17) Brian M. Jenkins, “International Terrorism: The Other World War.” Excerpt from a project AIR FORCE Report prepared for the USAF (Santa Monica: Rand, Nov. 1985), and reprinted in Charles W. Kegley, Jr., Ed., *International Terrorism*, St. Martin’s Press, 1990.
  - (18) For further examples, refer to the appendix.
  - (19) *The Independent*, October 10<sup>th</sup> 2001.
  - (20) *The Independent*, October 27<sup>th</sup> 2001.
  - (21) William E. Connolly, “The Politics of Discourse” in *Language and Politics*, New York, 1984, p. 139.

## APPENDIX

### Conventions Against Terrorism

(For full details see [http://www.undcp.org/odccp/terrorism\\_conventions.html](http://www.undcp.org/odccp/terrorism_conventions.html))

There are 12 major multilateral conventions and protocols related to states’ responsibilities for combating terrorism. But many states are not yet party to these legal instruments, or are not yet implementing them.

In addition to these treaties, other instruments may be relevant to particular circumstances, such as bilateral extradition treaties, the 1961 Vienna Convention on Diplomatic Relations, and the 1963 Vienna Convention on Consular Relations. Moreover, there are now a number of important UN Security Council and General Assembly Resolutions on international terrorism, dealing with specific incidents.

The following list identifies the major terrorism conventions and protocols and provides a brief summary of some of the major terms of each instrument. In addition to the provisions summarized below, most of these conventions provide that parties must establish criminal jurisdiction over offenders (e.g., the state(s) where the offence takes place, or in some cases the state of nationality of the perpetrator or victim).

**1. Convention on Offences and Certain Other Acts Committed On Board Aircraft (“Tokyo Convention”, 1963 – safety of aviation):**

–applies to acts affecting in-flight safety;

–authorizes the aircraft commander to impose reasonable measures, including restraint, on any person he or she has reason to believe has committed or is about to commit such an act, when necessary to protect the safety of the aircraft;

–requires contracting states to take custody of offenders and to return control of the aircraft to the lawful commander.

**2. Convention for the Suppression of Unlawful Seizure of Aircraft (“Hague Convention”, 1970 – aircraft hijackings):**

–makes it an offence for any person on board an aircraft in flight [to] “unlawfully, by force or threat thereof, or any other form of intimidation, [to] seize or exercise control of that aircraft” or to attempt to do so;

–requires parties to the convention to make hijackings punishable by “severe penalties”;

–requires parties that have custody of offenders to either extradite the offender or submit the case for prosecution;

–requires parties to assist each other in connection with criminal proceedings brought under the convention.

**3. Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (“Montreal Convention”, 1971 – applies to acts of aviation sabotage such as bombings aboard aircraft in flight):**

–makes it an offence for any person unlawfully and intentionally to perform an act of violence against a person on board an aircraft in flight, if that act is likely to endanger the safety of that aircraft; to place an explosive device on an aircraft; and to attempt such acts or be an accomplice of a person who performs or attempts to perform such acts;

–requires parties to the convention to make offences punishable by “severe penalties”;

–requires parties that have custody of offenders to either extradite the offender or submit the case for prosecution;

**4. Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons (1973 – outlaws attacks on senior government officials and diplomats):**

–defines internationally protected person as a Head of State, a Minister for Foreign Affairs, a representative or official of a state or of an international organization who is entitled to special protection from attack under international law;



–requires each party to criminalize and make punishable “by appropriate penalties which take into account their grave nature”, the intentional murder, kidnapping, or other attack upon the person or liberty of an internationally protected person, a violent attack upon the official premises, the private accommodations, or the means of transport of such person; a threat or attempt to commit such an attack; and an act “constituting participation as an accomplice”;

**5. International Convention Against the Taking of Hostages (“Hostages Convention”, 1979):**

–provides that “any person who seizes or detains and threatens to kill, to injure, or to continue to detain another person in order to compel a third party, namely, a State, an international intergovernmental organization, a natural or juridical person, or a group of persons, to do or abstain from doing any act as an explicit or implicit condition for the release of the hostage commits the offence of taking of hostage within the meaning of this Convention”;

**6. Convention on the Physical Protection of Nuclear Material (“Nuclear Materials Convention”, 1980 – combats unlawful taking and use of nuclear material):**

–criminalizes the unlawful possession, use, transfer, etc., of nuclear material, the theft of nuclear material, and threats to use nuclear material to cause death or serious injury to any person or substantial property damage;

**7. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Extends and supplements the Montreal Convention on Air Safety), (1988):**

–extends the provisions of the Montreal Convention (see No. 3 above) to

encompass terrorist acts at airports serving international civil aviation.

**8. Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, (1988 – applies to terrorist activities on ships):**

–establishes a legal regime applicable to acts against international maritime navigation that is similar to the regimes established against international aviation;

–makes it an offence for a person unlawfully and intentionally to seize or exercise control over a ship by force, threat, or intimidation; to perform an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of the ship; to place a destructive device or substance aboard a ship; and other acts against the safety of ships;

**9. Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf (1988 – applies to terrorist activities on fixed offshore platforms):**

–establishes a legal regime applicable to acts against fixed platforms on the continental shelf that is similar to the regimes established against international aviation;

**10. Convention on the Marking of Plastic Explosives for the Purpose of Detection (1991 – provides for chemical marking to facilitate detection of plastic explosives, e.g., to combat aircraft sabotage):**

–designed to control and limit the used of unmarked and undetectable plastic explosives (negotiated in the aftermath of the 1988 Pan Am 103 bombing);

–parties are obligated in their respective territories to ensure effective control over “unmarked” plastic explosive, i.e., those that do not contain one of the

detection agents described in the Technical Annex to the treaty;

–generally speaking, each party must, among other things: take necessary and effective measures to prohibit and prevent the manufacture of unmarked plastic explosives; prevent the movement of unmarked plastic explosives into or out of its territory; exercise strict and effective control over possession and transfer of unmarked explosives made or imported prior to the entry-into-force of the convention; ensure that all stocks of such unmarked explosives not held by the military or police are destroyed or consumed, marked, or rendered permanently ineffective within three years; take necessary measures to ensure that unmarked plastic explosives held by the military or police, are destroyed or consumed, marked, or rendered permanently ineffective within fifteen years; and, ensure the destruction, as soon as possible, of any unmarked explosives manufactured after the date-of-entry into force of the convention for that state.

**11. International Convention for the Suppression of Terrorist Bombing (1997): (UN General Assembly Resolution)**

–creates a regime of universal jurisdiction over the unlawful and intentional use of explosives and other lethal devices in, into, or against various defined public places with intent to kill or cause serious bodily injury, or with intent to cause extensive destruction of the public place;

**12. International Convention for the Suppression of the Financing of Terrorism (1999):**

–requires parties to take steps to prevent and counteract the financing of terrorists, whether direct or indirect, though groups claiming to have charitable, social or cultural goals or which also engage in such illicit activities as drug trafficking or gun running;

–commits states to hold those who finance terrorism criminally, civilly or administratively liable for such acts;

–provides for the identification, freezing and seizure of funds allocated for terrorist activities, as well as for the sharing of the forfeited funds with other states on a case-by-case basis. Bank secrecy will no longer be justification for refusing to cooperate.