

If the point of law is to prevent crime then people have to understand the boundaries of legal behavior – so how is the function of the term “terrorism” useful if there is no single definition?

# Terrorism as a toxic term: why definition matters

One might conceive of terrorist acts as being partly theatrical and dramatic. But the drama of terrorism is real rather than staged. Actual persons are physically and emotionally hurt, and many perish as a result of alleged terrorist acts. Those who are putting up the act willingly risk their own well-being, including their own lives. But those who are targeted are the reluctant victims. While alleged terrorists and their victims are the real actors in a Machiavellian drama, the alleged terrorists’ message is frequently aimed at influencing and, if possible, coercing a larger audience, be it domestic or international.

Terrorism as the use of theatrical but real violence or the threat of it to intimidate one’s enemies has a long-standing pedigree in human history. As any drama, however, its interpretations vary depending on contextual considerations.

As a polysemic term with multiple and evolving meanings, terrorism stands out not only as a contestable but also toxic term. Contestable because reasonable people disagree about the meaning of terrorism, and toxic because those who engage in so-called terrorist violence try to justify or excuse it by appealing to such a contestability.

While journalists, scholars, politicians, social policy experts and ordinary citizens continue to use the term terrorism assuming that it conveys a clear and noncontroversial meaning, some contend that we are better off moving away from using the term to avoid an illusion of meaning invariance. Still, others argue to stop using the term terrorism because oftentimes its use is partisan. For example, nonstate actors who engage in political violence and their supporters defend their strategy by proclaiming the

hackneyed slogan: “one person’s terrorist is another person’s freedom fighter.”

Apparently, in its new forthcoming guidelines the BBC is discouraging reporters from using the words “terror” and “terrorism” to avoid partisanship.<sup>1</sup> While the intention behind the alleged new guidelines can be praiseworthy, those who follow them might end up describing vicious and gruesome acts of violence motivated by broadly construed political considerations against innocent civilians simply as ordinary violent acts rather than as terrorist acts. Such a presumably nonpartisan description conflates an ordinary criminal act with a politically motivated criminal act.

Some argue that we can get an understanding of terrorism by focusing on how people use the term in different contexts. Others argue, as Supreme Court Justice Potter Stewart famously claimed in the 1964 *Jacobellis v. Ohio* case when trying to define hard-core pornography: “I know it when I see it.” None of these two approaches seem promising for elaborating an adequate and persuasive definition of terrorism.

In the first approach, people describe all sorts of violent acts or threats as terrorism without being consistent in their descriptions. Moreover, some argue that those who frequently ascribe the term to nonstate actors alone are being one-sided in their ascriptions. We know that the number of innocent victims killed or seriously harmed as a result of terrorism by nonstate agents pales in comparison with the millions of innocent victims that have been and are still being killed or seriously harmed by what one could describe as state-sponsored political violence or state





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terrorism. True, the charge of “state terrorism” has no legal standing in international law because states are assumed to behave decently, but that is just a fallacious assumption. States can be charged with war crimes or crimes against humanity, both of which are proscribed by international law. Nonetheless, it is virtually impossible to prosecute a powerful state under the already-mentioned charges unless it has been already defeated in war, in which case it is no longer a powerful state. That is what happened to Nazi Germany and Imperial Japan after World War II.

The second approach seems unconvincing too because it implies a rather shallow relativism and an unworkable theory of meaning. Like the term “hard-core pornography,” the term “terrorism” presents a challenge to those who choose to define it. By reverting to a pure subjectivist approach as Justice Potter Stewart argued regarding pornography, a person is just skirting the already-mentioned challenge. “I know it when I see it” is neither an explanation, nor a justification, nor an excuse but a trivialization of what the term stands for. To claim to know whether a given practice constitutes terrorism by just perceiving it is to relativize the content of the claim. If the meaning of a term is determined by each person’s perception, and each person’s

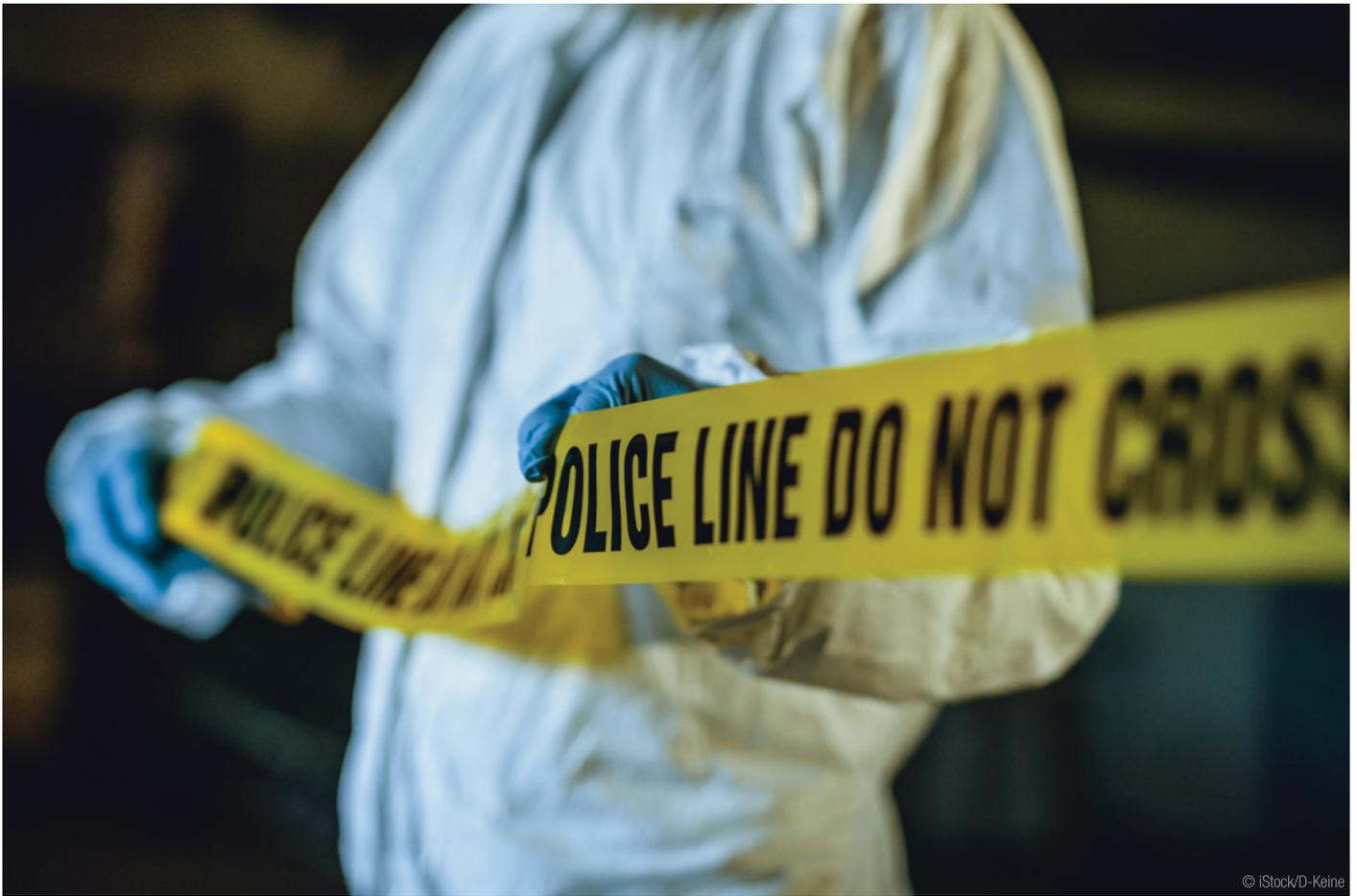
perception is likely to differ, then the term has no interpersonal meaning.

As the contrarian but comical Humpty Dumpty character in Lewis Carroll’s classic work, *Through the Looking-Glass\**, one can venture to offer a Humpty Dumpty definition of terrorism. That is, terrorism would simply mean whatever one wants it to mean. And if and when someone challenges one’s definition, one can always answer à la Humpty Dumpty – the question is not whether I can make words mean so many different things, as Alice objected to Humpty Dumpty’s arbitrariness in assigning his own meaning to a word, but rather, who is to be the master in assigning the meaning to a word, as Humpty Dumpty replied. Such an *ad hoc* approach to the meaning of words seems not only unhelpful but also a nonstarter in trying to provide a universal definition of international terrorism that could be instrumental in implementing globally effective counterterrorist measures.

We can learn from Humpty Dumpty’s pointed observation. One fundamental issue regarding the meaning of terrorism is precisely “who is to be the master” in assigning such a meaning. A critical impediment in achieving a consensus in defining the concept of international terrorism in international law has been and still is that powerful nations are reluctant to accept a

definition of terrorism that would apply to both state and nonstate actors. States are adamant by insisting that the ascription of terrorism be applied only to nonstate actors. Also, some states that have been and still are supporting surrogate groups engage in wars of liberation are equally adamant by insisting that there is a substantive moral distinction between guerrilla groups fighting wars of liberations against occupying powers and terrorist groups.

The international community can benefit from adopting a nonpartisan universally acceptable definition of international terrorism. For example, at this moment in time different sources indicate that global terrorism is down from previous years. That is, of course, encouraging news. But since there is no universally agreed definition of international terrorism, statistics about alleged terrorist acts suffer from being one-sided. That is, most if not all the centres collecting empirical data about alleged terrorist acts assume that only nonstate actors are responsible for those acts. Therefore, the data collected by these centres is already biased in favour of state and against nonstate actors. While the data is ideologically tainted, some of it could be useful for understanding where political violence is more prevalent around the globe. Having such an understanding might help the international



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community in designing and implementing effective measures to address the root causes of terrorism.

Despite controversies about fixing the meaning of the term “terrorism,” there is widespread consensus that a necessary condition for classifying an act as a terrorist act must involve the actual use or the threat of violence for political purposes broadly construed. I define terrorism as “the use of political violence by individuals or groups who, with the aim of influencing a domestic or an international audience ,

deliberately or recklessly inflict substantive underserved harm or threaten to do so on those who can beyond reasonable doubt be conceived of as innocent non-combatants.”<sup>2</sup>

On the one hand, those who are biased in favour of states and against nonstate actors will underscore that my definition is too broad because it allows for the possibility that states might engage in terrorist acts. On the other hand, those who are biased in favour of alleged guerrilla groups or freedom fighters will highlight that my definition is too narrow because it neglects a

morally significant distinction between those who engage in wars of liberation against occupying powers and terrorist groups. Both opposing camps, however, obviate a fundamental issue. Regardless where the violence is coming from, it is categorically unjustifiable to deliberately or recklessly inflict substantive harm and least of all kill those who are innocent beyond reasonable doubt. A definition of international terrorism needs to focus on those who are affected the most by the actual violence or the threat of it, namely the innocent victims of such despicable acts.



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1 Katherine Rushton, “BBC bosses accused of ‘sanitising’ Islamist attacks after it emerges reporters will be told to stop using word ‘terror’ unless quoting someone,” Daily Mail, 9 June 2019. Available: <https://www.dailymail.co.uk/news/article-7122123/BBC-reporters-told-stop-using-word-terror-unless-quoting-else.html?ito=social-facebook>.

2 Vicente Medina, *Terrorism Unjustified: The Use and Misuse of Political Violence* (Lanham (MD): Rowman & Littlefield, 2015), p. xi.

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