I. Definition of Terrorism

The international community and individual States alike have grappled with the problem of creating a viable definition of 'terrorist' activity. Academics, politicians, security experts, and journalists currently use a variety of definitions of terrorism. The variances in these definitions will depend on the point of emphasis of the user. The main stumbling block is the propensity and ease of politicians, the public, and the media in various parts of the world to judge groups by the merit of their goals rather than the tactics or methods used to achieve those goals. The dilemma is well summed-up by the cliché, "One man's terrorist is another man's freedom fighter."[2] This point is well illustrated by a comment from the Jordanian delegation to the UN in October 2001, in maintaining that any definition of terrorism not include "use of force in cases of self-defense and when used against foreign occupiers to achieve self-determination."[3]

Why have a definition of terrorism?

Several observers have highlighted the need for an international agreement on the definition of terrorism, as imperative for any attempt at international co-ordination against terrorist threat. Otherwise the term 'terrorism' will continually be politicized according to who supports which cause. The lack of clarity in the definition of terrorism can be easily exploited by terrorist organizations that may wish to attract sympathy and support for their movements. Real international co-operation in the discovery, investigation, extradition, and criminal proceedings of terrorists is predicated upon a common understanding of what makes a 'terrorist.' For example, the international agreements on extradition traditionally allow for a 'political offense' exception. Since terrorist are motivated by political goals, it must be made clear where to draw the line on this political offense exception, allowing appropriate

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[2] Ganor, Boaz. "Defining Terrorism: Is One Man's Terrorist Another Man's Freedom Fighter?" International Policy Institute for Counter-Terrorism – www.ict.org.il. 23 Sept. 1998.

[3] UN GA/9925: "Assembly Hears Call for Definition of Terrorism." 3 October 2001.

extradition for those who commit terrorist crimes. International conformity on a concise description of a 'terrorist' act can help to eliminate any ambiguity in extradition laws.

Domestically, a well-crafted definition of terrorism can allow crimes aimed at terrorizing particular communities or groups to be punished more severely than standard criminal activity. This is particularly relevant in Bosnia and Herzegovina, where there is a real need to deter such activity so that resolution of national problems (such as return of refugees or displaced persons) can be accelerated.

Most importantly and hopefully, a well-constructed definition of terrorism may actually alter the behavior of would-be terrorists, by deterring them from actions would be considered 'terror.' Facing heavier and more unified sanctions under national and international law, they may instead turn to more 'legitimate' forms of struggle – such as guerilla warfare, peaceful protest, or political activism. An incentive is created to turn away from targeting civilians with violence.

Creating a Definition that Works

As with any crime, the difficulty in defining terrorism is to find language that includes everything that would be considered 'terrorism,' without including activity that should not be criminalized. Human and civil rights groups around the globe have voiced their dissatisfaction with many of the attempted definitions – even claiming that some may "endanger legitimate dissent."[4]

The choice is between a reactive and proactive definition of terrorist activity. A reactive definition would define specifically each kind of act that is considered terrorism – for example, hijacking a plane, taking hostages, "use of a bomb, grenade, rocket, automatic firearm or letter

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[4] "EU to adopt new laws on terrorism." Statewatch News Online – www.statewatch.org. September 2001.

bomb if this use endangers persons,"[5] etc. The problem with simply using an explicit list of terrorist act is that terrorists, much like ordinary criminals, can always find new and creative ways to carry out their business – ways that lawmakers my not even be able to imagine now. An interesting example – which the BiH government would likely try to emulate in its attempt to work toward eventual European integration – is the European Union Council Framework Decision[6] on combating terrorism. This decision contains a nine-point list of specific acts which will be considered terrorism if meant to seriously damage a country or international organization.

The alternative is to create a definition meant to encompass all possible future terrorist techniques. However, this runs the risk of encroaching on civil liberties by including acts not considered criminal by the public at large. A 1995 UN General Assembly Resolution referred to terrorism as "Criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes." [7]   In countries with a history of strong civil society and openness toward protest, there is little chance that even over-inclusive language would allow non-violent civil protest to fall under the scope of 'terrorism.' The media and the public would be likely to create such an outcry that using 'terrorism' to charge protesters or dissidents would be untenable.   However, in countries – such as BiH – with newly developing democracy and little to no history of civil society or freedom of opposition, sweeping or ambiguous language could be more easily utilized by those in political power to stifle dissent or protest.

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[5] European Convention on the Suppression of Terrorism

[6] EU Council Framework Decision of 13. June 2002

[7] UN A/RES/50/53 Paragraph 2 (11. December 1995) AND UN A/RES/49/60 Annex I.3 (9. December 1994)

However, it is clear from all efforts that terrorism has 3 main elements:

- Intentional violence or intentional threat of violence

- Intentional targeting of civilians

- Political objective

In BiH this includes both the more publicized international terrorist groups or supporters, as well as domestic terrorism – aimed at preventing returnees, for example.