

A universal law to fight terror

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JOINT APPROACH:
An international legal convention is needed to reduce the threat of global terrorism



RAHUN YAHYA

TERROR has become a global threat affecting the entire world. Consequently, the fight against terror has come to occupy first place on the agendas of states and international organizations. The international nature of terror has made a global struggle against terror essential and created a powerful need for international collaboration.

Romania was the first country that indicated the need for a joint struggle and collaboration. In 1926, Romania suggested the League of Nations consider drafting a 'convention to render terrorism universally punishable'. Following that, an international document known as the 'Geneva Convention for the Prevention and Punishment of Terrorism' was drafted on Nov 16, 1937. However, the convention was only signed by one country and failed to enter into force due to lack of sufficient backing.

A total of 109 separate definitions of terror were produced between 1936 and 1981, but no internationally accepted definition has yet been made, even to this day; that is why there is still no general international agreement on the subject of terror. Although the United Nations, which has been widely active on the subject of the fight against terror since the 1950s, has condemned all forms of terror in many decrees, no universally agreed-upon definition of 'terror' has yet been produced.

The UN has sought to fill the gap resulting from states failing to agree on a common definition with international documents intended to prevent specific acts of terror, such as hijacking planes, taking hostages or bombings. There are currently 21 treaties and three protocols, 26 legal documents in other

words, on the subject.

There are four main reasons for states' failing to agree on a common definition of terror and to produce an international treaty to prevent terror. These are legal, political, psychological and strategic in nature. The legal reason concerns the concept of 'self-determination' in international law. Self-determination, countries' right to determine their own future, is explicitly defined in Articles 1, 2, 35 and 103 of the UN Treaty. The international community refuses to recognise legitimate struggles for self-determination or other forms of national people and people under foreign occupation as 'terror'. The fear of damaging these legitimate struggles prevents a general definition of terrorism from being produced.

The political reason concerns the relation between political players and some former states. States provide secret backing for terror in order to weaken other, rival states. Since a loose definition suits such states' interests, they do not contribute to the adoption of a common approach. However, since this has also begun impacting on the status in question for some time now, they have begun amending their formerly entrenched, intractable positions.

The psychological reason involves the ideological sympathy that some countries feel for national liberation movements. One country's 'terror organisations' may be another country's 'freedom fighters'. For example, there are countries that refuse to recognise the PKK (Kurdistan Workers' Party) and ASALA (Armenian Secret Army for the Liberation of Jerusalem) as terror organisations, despite the fact that these groups have committed acts that are accepted as 'terrorist acts' in all international documents. Again, some countries want to define the way authoritarian regimes oppress their own citizens as 'state terror'. It is impossible to minimise or eliminate this difference in approaches.

The strategic reason concerns states' desire to be flexible. States want to be sufficiently flexible to be able to behave in the light of their own interests in the face of acts of terror in the future. They are reluctant to be bound by legal commitments. They are also reluctant to determine in advance their reactions to states that will affect the interests of their countries and

citizens, and thus, to restrict their own freedom of manoeuvre by their own signatures.

All states today are closely bound to one another through economic, political and cultural ties, and a development in any one part of the world affects everywhere else. Under such a system, it is beyond question that all states and communities, and even all individuals, will be damaged by an act of terror. The dreadful scale of acts of terror makes it now more essential than ever for states to come together on a common point.

What needs to be done is to establish a convention, similar to that established by the Council of Europe, for the protection of human rights in the presence of the UN. In the same way that the Council of Europe has made member states' rules and policies compatible with the convention by means of the European Commission on Human Rights and the European Court of Human Rights, the world body can set up a similar mechanism through its official judicial body, the International Court of Justice.

There is, in fact, no need for a common definition of terror or a terror treaty in order to do this, as there are already in legal documents recognised by the UN. The International Court of Justice, which every member of the UN has a duty to recognise, can establish its own law on terror on the basis of those documents. That law may also contain definitions, rules and sanctions. In that way, the common approach that states have failed to achieve for the reasons cited above can thus be established through the articles of the International Court of Justice.

The current international climate suggests that the scale of global terrorism will grow in the days and years to come. The establishment of an effective international legal mechanism against terror will undoubtedly contribute to reducing that threat. We, therefore, hope that all states, and particularly the permanent members of the UN Security Council, will at once establish a joint approach, or if that is not possible, that they will at least contribute to the development of a common law on terror under the aegis of international judicial bodies.

The writer has authored more than 300 books, translated into 72 languages, on politics, religion and science.

turning out an investigation involving uploading of the video. That is the current practice under existing laws. In short, under POTA, policemen charge. Back to the threat immediately, carry out investigation of who uploaded the video later.

On Feb 23, a short video clip was uploaded onto the Internet, showing three hooded figures, with one of them saying in a digitally altered voice: 'We, the Anti-Democracy front of Malaysia hereby announce that we will kill the Inspector-General of Police by blowing up his car.'

A week before that, on Feb 23, a similar video was posted showing four men clad in black and wearing ski masks. They threatened to light up firecrackers at courthouses across the country to show that they no longer believe in this country's democratic system.

Can the police afford not to take these threats seriously?

In Australia, the police can place people under 'preventative detention orders' under two circumstances — first, where there is a threat of an imminent terrorist attack and the detention order might help prevent it; and second, immediately after a terrorist act.

A person can be detained for a maximum of 48 hours under the Commonwealth law, 34 days under state and territory laws and 14 days under a combination of Commonwealth and state and territory regimes. These powers, contained under Division 106 of the Criminal Code Act 1995, are administered by the Attorney-General's Department, Government of Australia.

The anti-terrorist law in the United Kingdom developed in phases over the last two decades. Under the earlier Prevention of Terrorism (Temporary Provisions) Act 1984, the home secretary can detain

a person for a maximum of seven days. The law was challenged in the European Court of Human Rights, and in 1988, the Court ruled that the act was in breach of Article 5(1) of the European Convention on Human Rights.

The 1984 Act was replaced by the Terrorism Act of 2000. Under this new law, suspects can be detained for up to 48 hours; any extension beyond that period can only be made by a court of law. Subsequent legislation extended this period of detention — from 48 hours to seven days, and from seven days to 14 days under the Criminal Justice Act of 2003, and from 14 days to 28 days (under the Terrorism Act of 2006).

Local media reports recently stated that at least 81 Malaysian citizens are now in several West Asian countries. Some migrated there with their families to join the IS militants in Syria.

The Counter-Terrorism Division of the Special Branch in Kuala Lumpur stated that 'recruiters' for the IS militants have been active in this country for some time.

Deputy Inspector-General of Police Danik Seed Noor Rashid Ibrahim confirmed that the Counter-Terrorism Division tracked down Malaysian planning to leave the country to join the IS militants, as well as keeping a lookout on IS recruiters of other nationalities operating in the country.

The fight to combat terrorism (in-bound or out-bound) must be carried out at full strength. To do that, the authorities must be equipped with the necessary pre-emptive powers. POTA has that singular objective, and for that, it deserves our full support.

The writer formerly served the Attorney-General's Chambers before he left to practice the corporate sector and, thus, the academia.

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The **international** nature of terror has made a global struggle against terror essential and created a powerful need for international collaboration. **Romania** was the first country that indicated the need for a joint struggle and collaboration. In 1926, Romania suggested the League of Nations consider drafting a 'convention to render terrorism universally punishable.'

Following that, an international document known as the 'Geneva Convention for the Prevention and Punishment of Terrorism' was drafted on November 16th, 1937. However, the convention was only signed by one country and failed to enter into force due to lack of sufficient backing.

One hundred and nine separate definitions of terror were produced between 1936 and 1981, but no internationally accepted definition has yet been made, even to this day; that is why there is still no general international agreement on the subject of terror.

Although the United Nations, which has been widely active on the subject of the fight against terror since the 1990s, has condemned all forms of terror in many decrees, no universally agreed-upon definition of 'terror' has yet been produced.

The U.N. has sought to fill the gap resulting from states failing to agree on a common definition with international documents intended to prevent specific acts of terror, such as hijacking planes, taking hostages or bombings. There are currently **13 treaties** and three **protocols, 16 legal documents in other words**, on the subject.

There are four main reasons for states' failing to agree on a common definition of terror and to produce an international treaty to prevent terror. These are **legal, political, psychological and strategic in nature**.

The legal reason concerns the concept of 'self determination' in international law. Self determination, countries' right to determine their own futures, is explicitly defined in articles 1, 51, 55 and 103 of the U.N. Treaty. The international community refuses to recognize **legitimate** struggles for self-determination or national liberation of colonial people and people under foreign occupation as 'terror.' The fear of damaging these legitimate struggles prevents a general definition of terrorism from being produced.

The political reason concerns the relation between political players and terror. Some states provide secret backing for terror in order to weaken other, rival states. Since a **lawless climate** suits such states' interests, they do not contribute to the adoption of a common approach. However, since this has also begun impacting on the states in question for some time now, they have begun amending their formerly entrenched, irreconcilable positions.

The psychological reason involves the ideological sympathy that some countries feel for national liberation movements. One country's "**terror organization**" may be another country's "**freedom fighter.**" For example, there are countries that refuse to recognize the **PKK** and **ASALA** as terror organizations, despite the fact that these groups have committed acts are accepted as 'terrorist acts' in all international documents. Again some countries want to define the way authoritarian regimes oppress their own citizens as 'state terror.' It is impossible to minimize or eliminate **this difference in approaches**.

The strategic reason concerns states' desire to be flexible. States want to be sufficiently flexible to be able to behave in the light of their own interests in the face of acts of terror in the future. They are reluctant to be bound by legal commitments. They are also reluctant to determine in advance their reactions to matters that will affect the interests of their countries and citizens and thus to restrict their own freedom of maneuver by their own signatures.

All states today are closely bound to one another through economic, political and cultural ties, and a development in any one part of the world affect everywhere else. Under such a system it is beyond question that all states and communities, and even all individuals, will be damaged by an act of terror. The dreadful scale of acts of terror makes it now more essential than ever for states to come together on a common point.

What needs to be done is to establish a mechanism, similar to that established by the **Council of Europe** for the protection of human rights in the presence of the United

Nations. In the same way that the **Council of Europe** has made member states' rules and policies compatible with the convention by means of the European Convention on Human Rights and the European Court of Human Rights, the **United Nations** can set up a similar mechanism through its official judicial body, the **International Court of Justice**.

There is in fact no need for a common definition of terror or a terror treaty in order to do this as there are already 16 legal documents recognized by the U.N. The **International Court of Justice**, which every member of the U.N. has a duty to recognize, can establish its own law on terror on the basis of those 16 documents. That law may also contain **definitions, rules and sanctions**. In that way, the common approach that states have failed to achieve for the reasons cited above can thus be established through the articles of the **International Court of Justice**.

The current international climate suggests that the scale of global terrorism will grow in the days and years to come. The establishment of an effective international legal mechanism against terror will undoubtedly contribute to reducing that threat. We therefore hope that all states, and particularly the permanent members of the U.N. Security Council, will at once establish a joint approach, or if that is not possible, that they will at least contribute to the development of a common law on terror under the arbitrage of international judicial bodies.

Adnan Oktar's piece on New Straits Times & Daily Mail:



<http://dailymailnews.com/2015/03/24/the-role-of-international-law-in-the-fight-against-terror/>

The role of international law in the fight against terror

By: Harun Yahya in Harun Yahya 0



By Harun Yahya

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