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Citation for published version

Blakeley, Ruth (2012) State Violence as State Terrorism. In: Breen-Smyth, Marie, ed. The Ashgate Research Companion to Political Violence. Ashgate, London, pp. 63-78. ISBN 978-0-7546-7752-

DOI

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STATE VIOLENCE AS STATE TERRORISM

Ruth Blakeley

Introduction

Much state violence is used to coerce populations into complying with the wishes of elites, by using the violence to instil fear in an audience beyond the direct victim of the violence. State violence of this kind is usually intended to achieve certain political objectives, particularly curtailing political opposition. When used in this way, state violence constitutes state terrorism. With reference to specific empirical examples the chapter explores state terrorism in relation to other forms of state violence. It will begin by introducing the reader to the debates on how terrorism generally, and state terrorism specifically, are defined, and will demonstrate that these are highly contested terms. Nevertheless, the chapter will show that there is sufficient agreement among scholars on the key constitutive elements of terrorism that we can adequately define state terrorism based on existing and accepted definitions of terrorism. A defining feature of state terrorism, and that which distinguishes it from other forms of state violence, is that it involves the illegal targeting of individuals that the state has a duty to protect with the aim of instilling fear in a target audience beyond the direct victim. In this regard, the chapter challenges the monopoly on legitimate violence that is frequently afforded to the state. It shows that any monopoly of violence that the state claims is neither a justification for excluding state terrorism from studies of terrorism, and nor, more importantly, for affording states the right to use violence in any way they choose.¹ After discussing the ways in which state terrorism is defined, the chapter then outlines the main difficulties associated with identifying state terrorism and distinguishing it from other forms of state violence. These difficulties relate primarily to questions of motive and agency. The chapter explores the measures that scholars can take to overcome these difficulties, with reference to various forms that state terrorism can take.

Defining state terrorism in relation to state violence

Totalitarian regimes throughout history, including those of Stalin, Hitler and Pol Pot, have used violence to terrorise populations into complying with the regime's demands. European colonial powers used violence in this way to establish and maintain their empires, and to try to thwart independence movements in their colonies. The allies during World War II bombed civilians in German cities to try and incite the public to turn against Hitler. The Latin American national security states during the Cold War, with significant support from the US, also deployed violence, including disappearances and torture, to try and curtail support for opposition movements. When non-state actors use violence to intimidate an audience beyond the direct victim of that violence, we refer to it as terrorism. Yet there has been considerable resistance within International Relations scholarship to the notion that states can be perpetrators of terrorism, even though the vast majority of state violence, particularly against domestic populations, is intended to have a terrorising effect, and results in far higher casualties than non-state terrorism does. It is frequently assumed that because the existence of the state is based on its monopoly of coercive power, there is a fundamental difference

¹ While not the focus of this chapter, it should be noted that in challenging the monopoly on violence that states claim, particularly where they use violence in illegitimate ways, it is logical to afford legitimacy to non-state actors involved in violent resistance to state tyranny. States deploy the self-defence principle to justify their recourse to violence, which they argue constitutes a legitimate use of force. Therefore, non-state actors resisting illegitimate violence by the state should also be afforded the same right, namely to deploy violence in self defence when they are illegitimately attacked by agents of the state.

between terrorism perpetrated by non-state actors, and violence perpetrated by the state. In other words, states are permitted to use violence, so we should not refer to their use of violence as terrorism. Non-state actors, on the other hand, are afforded no such right in pursuit of their political objectives hence we refer to their actions as terrorism. There are two significant problems with these assumptions. Firstly, terrorism and state violence are being differentiated on the basis of who the perpetrator of the act is, rather than on the nature of the act itself. Secondly, it incorrectly assumes that because the state has a monopoly on violence, any use of violence by the state is permissible. I will show that definitions of terrorism should be based on the nature of the act, and not the actor, and that on these grounds, there is no reason why actions by the state cannot be labelled as terrorism, if those acts fit the definition. I will then demonstrate that just because the state claims a monopoly on the use of violence in the interests of its survival, this does not mean that all forms of state violence are legitimate.

Debating definitions

There is no consensus on how terrorism should be defined. Indeed, as Andrew Silke notes, most works on terrorism begin with a discussion of the various associated definitional problems of the term (Silke 2004: 2), and the failure of scholars to reach agreement (Badey 1998: 90-107; Barker 2003: 23; Cooper 2001: 881-93; Duggard 1974: 67-81; Jenkins 1980; Weinberg et al. 2004: 777-94). There are nevertheless a group of core characteristics that are common to competing definitions. Yet some scholars do not accept that terrorism by states should be equated with terrorism by non-state actors. Walter Laqueur, for example, argues 'There are basic differences in motives, function and effect between oppression by the state (or society or religion) and political terrorism. To equate them, to obliterate them is to spread confusion' (Laqueur 1986: 89). He has also argued that including state terrorism in the study of terrorism 'would have made the study of terrorism impossible, for it would have included not only US foreign policy, but also Hitler and Stalin' (Laqueur 2003: 140). Laqueur's position shows that his analysis of terrorism is actor based, rather than action based. Even if the motives, functions and effects of terrorism by states and non-state actors are different, the act of terrorism itself is not, since the core characteristics of terrorism are the same whether the perpetrator is a state or a non-state actor. Laqueur's argument also serves to entrench the supposed moral legitimacy of state violence. He claims that those who argue state terrorism should be included in studies of terrorism ignore the fact that, 'the very existence of a state is based on its monopoly of power. If it were different, states would not have the right, nor be in a position, to maintain that minimum of order on which all civilised life rests' (Laqueur 2003: 237). Bruce Hoffman has made similar claims. He argues that failing to differentiate between state and non-state violence, and equating the innocents killed by states and non-state actors would 'ignore the fact that, even while national armed forces have been responsible for far more death and destruction than terrorists might ever aspire to bring about, there nonetheless is a fundamental qualitative difference between the two types of violence'. He argues that this difference is based upon the historical emergence of 'rules and accepted norms of behaviour that prohibit the use of certain types of weapons' and 'proscribe various tactics and outlaw attacks on specific categories of targets'. He adds that 'terrorists' have by contrast 'violated all these rules' (Hoffman 1998: 34).² This argument would only stand if it could be shown that states do not violate these rules, as set out in the Geneva Conventions. The reality is that they do. Any monopoly of violence that the state has is neither a justification for excluding state terrorism from studies of terrorism, nor, more importantly, for affording states the right

² A more detailed critique of the work of these scholars can be found in Sam Raphael, 'Putting the State Back In: The Orthodox Definition of Terrorism and the Critical Need to Address State Terrorism', British International Studies Association Annual Conference (Cambridge, UK, 2007).

to use violence in any way they choose (Stohl 2006: 4-5). Indeed, even in situations where, according to international law and norms, states have the legitimate right to use violence (*jus ad bellum*), it is not always the case that their conduct (*jus in bello*) is itself legitimate.

There are certain core characteristics common to the many definitions of terrorism. For Eugene Victor Walter, terrorism involves three key features: first, threatened or perpetrated violence directed at some victim; second, the violent actor intends that violence to induce terror in some witness who is generally distinct from the victim, in other words the victim is instrumental; and third, the violent actor intends or expects that the terrorised witness to the violence will alter their behaviour (Walter 1969). Paul Wilkinson's widely quoted definition echoes Walter's. Wilkinson argues that terrorism has five main characteristics:

It is premeditated and aims to create a climate of extreme fear or terror; it is directed at a wider audience or target than the immediate victims of the violence; it inherently involves attacks on random and symbolic targets, including civilians; the acts of violence committed are seen by the society in which they occur as extra-normal, in the literal sense that they breach the social norms, thus causing a sense of outrage; and terrorism is used to try to influence political behaviour in some way.

(Wilkinson 1992: 228-9)

Both Walter's and Wilkinson's definitions identify a specific logic in the use of terrorism, namely that it involves not simply harming the direct victim of the violence, but exploiting the opportunity afforded by the harm to terrorise others. Similarly, for both Walter and Wilkinson, terrorism is defined according to the actions carried out, rather than who the actors are, meaning that the state is not precluded as a potential perpetrator of terrorism. In an attempt to establish an agenda for research on state terrorism in the 1980s, Christopher Mitchell, Michael Stohl, David Carleton and George Lopez, incorporated Walter's core characteristics into their definition of state terrorism. They argued:

Terrorism by the state (or non-state actors) involves deliberate coercion and violence (or the threat thereof) directed at some victim, with the intention of inducing extreme fear in some target observers who identify with that victim in such a way that they perceive themselves as potential future victims. In this way they are forced to consider altering their behaviour in some manner desired by the actor.

(Mitchell et al. 1986: 5)

While this is not far removed from Wilkinson's definition of terrorism, it retains one of the elements established by Walter, namely, that the threat of violence is sufficient for a state to be perpetrating terror. This threat would only be sufficient in a pre-existing climate of fear induced by prior acts of state terrorism. As Ted Robert Gurr argues, a threat would not be adequate unless it was part of a pattern of activity 'in which instrumental violence occurs often enough that threats of similar violence, made then or later, have their intended effects' (Gurr 1986: 46).

Drawing on existing definitions, and specifically Walter's, I propose that state terrorism involves the following four key elements: 1) there must be a deliberate act of violence against individuals that the state has a duty to protect, or a threat of such an act if a climate of fear has already been established through preceding acts of state violence; 2) the act must be perpetrated by actors on behalf of or in conjunction with the state, including paramilitaries and private security agents; 3) the act or threat of violence is intended to induce extreme fear

in some target observers who identify with that victim; and 4) the target audience is forced to consider changing their behaviour in some way. With the exception of Walter's definition, the definitions discussed argue that the change in behaviour in the target audience has to be political. In line with Walter, I do not make the same claim, since states have frequently used violence to terrorise a wider audience so that they subordinate themselves to the wishes of the state. Those wishes may of course include lending political support to the state, but those wishes may also involve citizens labouring in the interests of elites. This was frequently the case in colonial states, where imperialists used terror to coerce citizens into working, often as slaves, to extract resources (Blakeley 2009). The strength of Walter's criteria, therefore, is that changes in behaviour other than political behaviour are not precluded. As already implied, the key ingredient that distinguishes state terrorism from other forms of state repression is its instrumentality.

The importance of the target audience

The key difference between state terrorism and other forms of state violence is that state terrorism involves the illegal targeting of individuals that the state has a duty to protect with the intention of creating extreme fear among an audience beyond the direct victim of the violence. That audience may be a domestic one, and it may be limited, consisting of only the immediate acquaintances of the actual victim. This is significant because it helps us to make an important distinction between isolated incidents of criminal activity or state violence on the one hand, and state terrorism on the other. The case of torture is helpful for exploring the significance of the target audience.

Many victims of state violence are subjected to torture. In some cases torture is carried out covertly, and is aimed primarily at tormenting the victim. It of course violates international law, but for torture to constitute state terrorism it must be aimed at, or have the effect of, terrorising an audience beyond the direct victim. Torture was used in history, very publically, as a form of punishment, but also as a means of deterring criminal behaviour (Beccaria [1764] 1995; Foucault 1977; Peters 1985; Vidal-Naquet 1963). Torture continues to be used as a means of terrorising other incarcerated detainees in order to compel certain behaviour, by ensuring that they hear the torture occurring, or see the physical harm inflicted on their fellow captives. Torture is often intended to alter behaviour among a much wider audience well beyond the walls of the torture chamber. It was used in this way by the Guatemalan state during the counterinsurgency war of the 1970s and 1980s, during which, as Amnesty International reported, newspapers were permitted to publish photographs of dead torture victims:

Guatemalan counterinsurgency operations in the early 1980s [...] included the terrorisation of targeted rural populations in an effort to ensure that they did not provide support for guerrillas. Tortured, dying villagers were displayed to relatives and neighbours who were prevented from helping them. Newspapers in urban areas during this period were allowed to publish photographs of mutilated bodies, ostensibly as an aid to families seeking their missing relatives, but also as a warning to all citizens not to oppose the government

(AI 1976)

The publication of the photographs in the Guatemalan case clearly indicates that the target of the terrorism was a very general audience. Indeed the intention was to terrorise the populations of entire cities. In some cases a much more specific organisation or set of individuals will be the intended audience. Had the victims in the Guatemalan case been

members of a specific political group that the government opposed, and had the victims' bodies been returned to the group's headquarters, the target of the terrorism would have been that political group, although others in the community may also have been terrorised if they came to know of the torture and murder of those individuals.

If torture occurs in complete secret, and there is no audience to witness it, it is difficult to argue that this constitutes state terrorism. For example, if an isolated individual or group of prison guards or members of the armed forces secretly used torture, and went to great lengths to ensure that no one else knew of it, and there was no evidence that higher authorities had sanctioned the torture, we might conclude that this was the criminal act of an individual or group, rather than an act of state terrorism. On the other hand, if such an act was carried out with the sanction of higher authorities, but the perpetrators and the higher authorities went to great lengths to ensure that no one else knew of it, we might conclude that this was an act of state violence, since it was perpetrated very clearly on behalf of the state. We could not, however, conclude it was state terrorism if there was no audience to witness it. In practice, most torture committed by state agents is part of a wider pattern of state repression and in many cases, state terrorism. Nevertheless, it is important to make this distinction between criminal activities by individuals, state violence, and state terrorism, thereby reserving the label of state terrorism for those acts which are both condoned at some level by the state, and are intended to or have the effect of terrorising a wider audience. I will discuss in more detail below how we might determine when individual acts are part of a wider policy of state terrorism.

International law, state violence and state terrorism

Before discussing the forms that state terrorism can take, we must first consider the status of state violence and state terrorism in relation to international law. While states claim a monopoly on the legitimate use of violence, in that they claim the right to resort to violence in self-defence, certain acts of state violence are nevertheless prohibited, even in the course of a defensive war. State terrorism, however, has no status as an illegal act in international law. It nevertheless may involve certain acts of state violence that are prohibited under international law. It is perpetrated with the aim of terrorising others through those illegal acts of state violence. In other words, state terrorism involves the deliberate use of violence against individuals that the state has a duty to protect, in order to invoke terror in a wider audience. The deliberate targeting of civilians in this way, either in armed conflict or in peace-time, violates principles enshrined in the two bodies of international law that deal with the protection of human rights: International Humanitarian Law (IHL) and International Human Rights Law (IHRL). Human rights are those rights which all citizens share under international law, both in peacetime and during armed conflict. The most fundamental of these are the right to life, the prohibition of torture or cruel, inhuman or degrading treatment or punishment, the prohibition of slavery and servitude and the prohibition of retroactive criminal laws (ICRC 2003). Targeting armed enemy combatants is legitimate in warfare, but certain acts are nevertheless prohibited. These include killing prisoners of war, or subjecting them to torture or other inhuman or degrading treatment or punishment (ICRC 1949). These constitute illegitimate acts of state violence, where the laws prohibiting such acts are violated, states may also be guilty of state terrorism, if those illegal acts were intended to, or had the effect of, terrorising a wider audience, as I will show. IHL also deals with the thorny question of what acts are permissible in warfare where civilian casualties are likely to ensue. The targeting of civilians is prohibited, both by IHL and IHRL, in times of war and peace. It is acknowledged in IHL, however, that civilian casualties are likely to be a secondary effect

of certain actions deemed to be legitimate in armed conflict. IHL is therefore concerned with ensuring that maximum effort is made to protect civilians when such operations take place, and with ensuring that any risks taken with civilian life are proportional to the acts being carried out. This is far from straightforward, as I will later show with reference to the use of strategic aerial bombardment.

Some IHL treaties permit governments to derogate from certain obligations in situations of public emergency threatening the life of the nation, but there are some rights that are never to be violated:

Derogations must, however, be proportional to the crisis at hand, must not be introduced on a discriminatory basis and must not contravene other rules of international law – including rules of IHL. Certain human rights are never derogable. Among them are the right to life, freedom from torture, or inhuman or degrading treatment or punishment, prohibition of slavery and servitude and prohibition of retroactive criminal laws

(ICRC 2003)

State terrorism involves the derogation from one or more of these against an individual or group, in order to invoke fear in a wider audience. The illegally targeted individual may be a civilian or an enemy combatant who has been disarmed and is being detained. The law is clear that there should be no derogations at all from the provisions of IHL that uphold the right to life and the right to freedom from inhuman or degrading treatment or punishment. State terrorism, then, only exists through the illegal targeting of individuals that states have a duty to protect. In this regard, as with other forms of state violence, a key ingredient of state terrorism is that it involves acts that are illegal under international law. It is deemed illegal and inhuman when non-state actors commit those acts, and it is no less inhumane if the perpetrator is a state.

The difficulties of identifying state terrorism

Both state terrorism and the illicit use of other forms of violence by the state are prosecutable under international law. Nevertheless, it is important to try and determine when states are using illicit violence as a means of intimidating an audience beyond the direct victim of the violence, thereby committing state terrorism. This is because in so doing they are committing not just one but two serious crimes – illegal use of force and an act of terrorism. Determining the intentions of state actors is not easy. Often their purposes will, at best, be ambiguous. This is largely because in most cases governments seek to conceal the extent to which they use terrorism, and when such activities are exposed, they tend to be justified as ‘necessary measures’ or more benignly as ‘police action’ (Mitchell et al. 1986: 2-3; Nicholson 1986: 31). Obtaining data on acts of terrorism committed by states is extremely difficult, since they tend not to advertise their terrorist activities or intent (Chambliss 1989: 203-04; Gibbs 1989: 330; Mitchell et al. 1986: 2; Nicholson 1986: 31). When such activities are exposed, considerable analytical effort is required to determine whether such an act does constitute state terrorism, since they are unlikely to be included in the major data sets of terrorist incidents. This also means that drawing concrete conclusions about whether certain acts constitute state terrorism may not always be possible, and instead we might need to make inferences from other, context-specific evidence. I will explore some of the difficulties involved in identifying state terrorism. They relate primarily to problems of motive and agency.

State terrorism as a secondary effect

In some cases, groups within a society may be terrorised as a consequence of other acts of state violence. This raises the question of whether we can argue that state terrorism has occurred if it is not the primary or only outcome of state violence. According to Mitchell et al, if the terror was unintentional, we could not argue that this was 'true' terrorism. But this assumes that we can determine that the terror was not intentional, rather than one of a number of intentions of the act. If we apply this condition, an act of violence cannot be defined as state terrorism if it is primarily aimed at harming the victim, a secondary effect of which is to terrorise other groups within a population. Mitchell et al illustrate their argument with the example of the policies of the Khmer Rouge that were aimed at the destruction of a particular sector of society, and which therefore constituted genocide. While this will have instilled terror throughout society, this was not the primary intention. By contrast, they argue, policies such as US Operation Phoenix in South Vietnam, which involved terrorising people associated with members of the National Liberation Front by publically rounding them up, torturing and assassinating them, do constitute state terrorism, because terrorising the target audience was the primary objective (Mitchell et al. 1986: 6).

Such a sharp distinction should not be made between terrorism as a secondary effect and terrorism as the primary objective of an act, particularly in cases where the act itself is illegitimate. A parallel can be drawn with Michael Walzer's work on the legitimacy of acts in war which are likely to have evil consequences. He argues that, in line with the jus in bello principles, such an act is only permissible providing four conditions hold:

that the act is good in itself or at least indifferent, which means [...] that it is a legitimate act of war; that the direct effect is morally acceptable [...] that the intention of the actor is good, that is, he aims only at the acceptable effect; the evil effect is not one of his ends, nor is it a means to an ends; that the good effect is sufficiently good to compensate for allowing the evil effect; it must be justifiable under the proportionality rule

(Walzer 2000: 153)

These conditions can be usefully applied to state terrorism, where it appears to be a secondary effect of some other act of state violence. State terrorism in such cases is not the unintended secondary effect of some good or indifferent act. It is a consequence of a policy which itself is illegitimate, repressive, and on Walzer's terms, evil. Furthermore, if the state seeks to commit genocide, for example, against a specific group, are they not assisted because others outside of that group are sufficiently fearful of the consequences for themselves if they were to intervene in an attempt to prevent the genocide? And could the terror that arises among other groups not be an intended effect, whether primary or secondary? In the case of the genocide by Nazi Germany against Jews, gypsies and homosexuals, individuals outside of those groups may not have intervened because they had been sufficiently terrorised by the increasing intensity of efforts by the Nazis to single these groups out, round them up, and transport them to unknown places, and subsequently by the rumours they had heard of concentration camps, and of others outside those groups who had attempted to protect the vulnerable, themselves disappearing. Indeed, as Gurr notes, Adolf Hitler, while in power, was explicit about the fact that his genocidal policies also served as a tool of terror to deter opposition:

I shall spread terror through the surprising application of all means. The sudden shock of a terrible fear of death is what matters. Why should I deal otherwise with all my

political opponents? These so-called atrocities save me hundreds of thousands of individual actions against the protestors and discontents. Each one of them will think twice to oppose me when he learns what is [awaiting] him in the [concentration] camp
(Adolf Hitler, cited in Gurr 1986: 46-7)

Even where the terrorism is not a secondary objective, it might prove expedient to the state, and should be labelled state terrorism. Walzer argues that to conclude that a secondary effect was unintentional there would have to be evidence that the actors involved sought to minimise the secondary effect. It is difficult to envisage that a state involved in a genocidal policy would be too concerned about minimising the ensuing terror among others outside of the targeted group, particularly where the terror may be instrumental to its overall objectives.

The same principle applies if terrorism ensues as a secondary effect of an act that may be considered legitimate. The case of the targeting of electrical power during the 1991 Gulf War is instructive here. In Operation Desert Storm, the US-led campaign against Iraq in 1990-1991, civilians were never intended as direct targets. According to the Gulf War Air Power Surveys (an analysis carried out by the US Air Force following the Gulf War), 'there was widespread agreement from the outset of the planning process that directly attacking the people of Iraq or their food supply was neither compatible with US objectives nor morally acceptable to the American people' (Keaney and Cohen 1993: 268). The target categories drawn up by the planners also indicate that civilians were not intended as direct targets. The authors of the Gulf War Air Power Surveys claim that the air campaign had not only been 'precise, efficient and legal, but had resulted in very few civilian casualties' (Keaney and Cohen 1993: 305). A Greenpeace International study in 1991 estimated that countrywide civilian casualties were 2,278 dead and 5,976 injured (Arkin et al. 1991: 46-7). The Greenpeace figure is cited by the Gulf War Air Power Surveys, and is not disputed by the Surveys' authors (Keaney and Cohen 1993: 482). There was, however, considerable controversy around the reporting of civilian casualties in the Gulf War, since the Pentagon made no attempt to keep records of civilian deaths. As the Pittsburgh Post-Gazette reported, Greenpeace later revised its estimates, but these differed from other estimates. In 1993 Greenpeace revised its estimate to 3,500 civilian deaths as a result of coalition bombing. The US Army War College estimated that 3,000 had been killed, and the government of Iraq put the figure at 2,248 (Kelly 2003). Greenpeace did conclude that they found no evidence of deliberate targeting of civilians. They did, however highlight the catastrophic human impact of the air campaign, caused by the devastation of the Iraqi infrastructure and the intense environmental degradation caused by the bombing (Arkin et al. 1991: 5). This was a result of the intensity of the air campaign. As Greenpeace report, 'In one day of the Gulf War, there were as many combat missions flown against Iraq as Saddam Hussein experienced in the entire Iran-Iraq war' (Arkin et al. 1991: 6).

There was, however, no indication in the Gulf War Air Power Surveys that measures were taken to minimise the secondary effect of terrorising the population, which would undoubtedly ensue from aerial bombardment of targets deemed to be legitimate, especially given the extensive nature of the bombing campaign. The opposite was true. There was a view among a number of those involved in the planning of the air campaign that harming the morale of the civilian population would be a welcome secondary effect of the targeting of Iraq's electricity generating capacity:

As for civilian morale, some of the air planners, including General Glosson, felt that 'putting the lights out on Baghdad' would have psychological effects on the average

Iraqi [...] By demonstrating that Saddam Hussein could not even keep the electricity flowing in Baghdad, it was hoped the Ba'th Party's grip on the Iraqi population could be loosened, thereby helping to bring about a change in the regime

(Keaney and Cohen 1993: 292)

Aerial bombardment that was sufficient to cripple the entire electricity generation capacity of modern cities such as Baghdad and Basra, is likely to have resulted in considerable levels of fear among the civilian population. This was not seen by the planners as an illegitimate secondary effect, but instead as a welcome means by which to undermine the regime. In warfare, attacking the morale of enemy soldiers is considered an appropriate means by which to attempt to avoid having to fight each and every battalion one by one. However, Walzer's argument requires that measures are taken to minimise the secondary effect, in this case, terrorising large sectors of the population. No such measures were taken by the air campaign planner. Indeed they hoped that the population would be sufficiently 'psychologically affected', a euphemism for 'terrorised', that opposition to the regime would increase. Rather than try and prevent the terrorising of the population, those involved in planning the air campaign actively encouraged it, even though this is illegitimate according to IHRL.

The problem of agency: When are state representatives acting on behalf of the state?

As discussed above, before concluding that an act of violence by a representative of the state was an act of state terrorism, we are confronted with a number of challenges relating to agency. We must first rule out the possibility that the act was simply an isolated, criminal act by an individual as opposed to an act of state violence. We then need to be able to demonstrate that the act was intended to or had the effect of terrorising a wider audience than the direct victim of the violence. Even then, however, the state still holds a degree of responsibility for the actions of its representatives. Whether we conclude that a state sanctioned the act, and therefore was complicit in state terrorism through its agents, might depend on how the state responds afterwards. If the state fails to prosecute the individual to the full extent of the law and fails to compensate the victims, and if the state attempts to excuse the actions in some way, the state is condoning the actions of that individual. We can argue therefore that the state was complicit. With reference to the use of torture at Abu Ghraib, I will demonstrate the importance of context specific evidence in determining firstly, whether acts of violence by state agents were acts of state terrorism, and secondly, whether those acts were part of an institutionalised policy of state terrorism.

To differentiate between the odd isolated criminal act of a prison officer or member of the armed forces, and an act sanctioned by the state, it is important to examine the reaction of the relevant officials and the state. If measures are taken, swiftly, to try and punish the perpetrator(s) through proper legal and disciplinary channels, and there is no evidence of the state sanctioning such activities, we might conclude that this was a criminal act by an individual or group, and not an act of state violence. This was indeed what the Pentagon and Bush administration claimed once the photographs emerged in 2004 revealing that detainees at the Abu Ghraib prison in Iraq had been tortured by US personnel. Nevertheless, this claim cannot be sustained, since there have been very few prosecutions, sentences have been light, and punitive measures have been limited to lower ranking soldiers, rather than the senior officers involved, or indeed the officials in the Bush administration who fought to ensure that methods tantamount to torture be permitted against terror suspects. In a speech on Iraq on 24 May 2004, shortly after the public had learned of the torture, President Bush declared:

Under the dictator [Saddam Hussein], prisons like Abu Ghraib were symbols of death and torture. That same prison became a symbol of disgraceful conduct by a few American troops who dishonored our country and disregarded our values
(Bush, cited in Milbank 2004)

The same conclusions were drawn by Major General Antonio Taguba in his initial inquiry. He concluded that the torture was the work of a few bad apples in need of improved training (Taguba 2004: 37).

Yet the record of events uncovered through various leaked documents, traced by Seymour Hersh (2004) and now compiled by Karen Greenberg and Joshua Dratel (2005), shows that despite the public statement condemning torture, the administration had been behind numerous attempts to allow torture of detainees in the 'War on Terror'. Policies outlined in the various memos that passed between the upper echelons of the administration, including the White House, the Department of Justice, and the senior Counsel to the president, were enacted. These included not affording protection under the Geneva Conventions to detainees, and allowing torture, including the use of stress positions, extremes of temperature and light, hooding, interrogations for 20 hours, forced grooming and removal of clothing, water boarding, and the use of scenarios designed to convince the detainee that death or severe pain were imminent, as advocated in a memo from Major General Dunlavey, dated 11 October 2002, requesting approval for such techniques (Dunlavey 2002). These techniques were subsequently sanctioned by Donald Rumsfeld on 2 December 2002 (Haynes 2002).

The response of the administration to the abuses at Abu Ghraib involved proceedings in military courts against nine reservists involved in the abuses, three of whom were convicted; the other six made plea deals (Gutierrez 2005). None of the senior officers implicated were brought to trial, and there was no attempt to hold to account those in the Bush administration who had themselves been involved in efforts to legitimise torture. Without examining the wider context of the Abu Ghraib case, it would be possible to conclude that this was an isolated incident committed by a small number of miscreants, and this was certainly the message that the administration attempted to portray. The reality is that there have been many cases of abuse in the 'War on Terror' at numerous camps in Iraq and Afghanistan, as well as at Guantánamo Bay, at the hands of US and allied forces. Furthermore, the policy of extraordinary rendition has resulted in torture and abuse, sanctioned by the US and various liberal democratic allies, and carried out by security agents from many countries with appalling human rights records (Blakeley 2009). Abu Ghraib, therefore, was not an isolated incident, but part of a much bigger pattern of state violence sanctioned by the US state. We can also conclude that it is indicative of a pattern of state terrorism, since these practices have had the effect of terrorising a wider audience than the direct victims of the disappearances and torture.

The case of Abu Ghraib underlines the importance of the wider context when considering whether acts of violence by state agents constitute state terrorism. Without evidence of intentions, we have to look to the broader context. A further indicator of intention concerns the reasonably anticipated likely consequence of an act. If, for example, a state chooses to bomb civilian areas of a city, knowing that this is almost certainly going to result in civilian casualties, it cannot claim that no harm was meant to civilians. Similarly, if state agents are in the business of kidnapping political activists, the state cannot claim that it did not intend to terrorise other political activists. If such acts are carried out repeatedly, despite the state having already seen that civilians are killed and terrorised by the bombing, and that political

activists are fearful, we can conclude that this was the intended outcome of those acts, and that the state, therefore is committing acts of terrorism against civilians.

As with various phenomena in the social sciences, determining whether state violence was used instrumentally to alter the behaviour of a wider audience than the direct victim, thereby constituting state terrorism, requires that we make judgments concerning the motives and agency behind specific acts. To legitimately label incidents of violence by representatives of the state as state terrorism, those incidents should not be analysed in isolation, but with reference to the wider context. This helps overcome some of the ambiguities we face when seeking to determine the degree of sanction from the state for those acts of violence, and the purpose that they were intended to serve. In some cases it simply may not be possible to make a decisive judgement, and it may only be through the passage of time that sufficient evidence comes to light to confirm that an act of state terrorism was committed, and to confirm that it was part of a wider institutionalised policy of terrorism.

Conclusion

States have frequently used violence against their own or external populations as a means of achieving their political objectives. State violence frequently also constitutes state terrorism, because it is used to instil fear in a wider audience than the direct victim of the violence. This is what distinguishes state terrorism from other forms of state violence. It also helps to explain why much of the violence deployed by states against its own or another population also constitutes state terrorism. States have found terrorism to be functional to the achievement of their political objectives, as the examples explored here demonstrate.

Despite the widespread use of state terrorism, there has been considerable opposition to the concept within International Relations scholarship. I have shown that the justifications for excluding state terrorism as a category of state violence are based on flawed applications of the various definitions of terrorism. Existing definitions of terrorism adequately encompass acts by state agents. I have shown that state terrorism involves a deliberate threat or act of violence against a victim by representatives of the state, or a threat of such when a climate of fear already exists through prior acts of state terrorism, which is intended to induce fear in some target observers who identify with the victim, so that the target audience is forced to consider changing their behaviour in some way. They also reinforce the monopoly on legitimate violence afforded to the state, even though within international norms and law, it is clear that certain acts of state violence are never permitted. Where widespread state terrorism takes place, it may emerge from the use of other forms of state violence, where the main objective was not to terrorise, but where this was a secondary, and often welcome consequence. With reference to the Just War tradition, I have argued that where state terrorism appears to be a secondary effect (albeit an instrumental one) rather than the primary motive of some other act, legitimate or not, it still constitutes state terrorism.

Neither definitions of terrorism nor international law pertaining to human rights present significant obstacles to scholars of state terrorism. On the contrary, they provide helpful criteria by which to identify and oppose state terrorism. The challenge for scholars, however, is determining whether acts of violence by state representatives can be labelled state terrorism, and when acts of state terrorism are part of a wider, institutionalised policy. As with other atrocities, there is a scarcity of evidence that explicitly shows such acts to have been sanctioned by the state. We are therefore faced with considerable challenges in identifying motive and agency when atrocities are committed. We can overcome some of

these challenges by situating specific acts of state violence within a much broader context. This involves analysing the circumstances surrounding the events in question, both at the local level, and in relation to other events and broader policies and strategies.

- AI (1976), 'Guatemala', London: Amnesty International Briefing Papers, No.8.
- Arkin, W., Durrant, D., and Cherni, M. (1991), 'On Impact: Modern Warfare and the Environment - A Case Study of the Gulf War', <http://www.greenpeace.org/raw/content/international/press/reports/on-impact-modern-warfare-and.pdf> (accessed 6 October 2008).
- Badey, T. (1998), 'Defining International Terrorism: A Pragmatic Approach', *Terrorism and Political Violence*, 10 (1): 90-107.
- Barker, J. (2003), *The No-Nonsense Guide to Terrorism*; London: Verso.
- Beccaria, C. ([1764] 1995), *On Crimes and Punishments and Other Writings*, ed. Richard Bellamy, trans. Richard Davies; Cambridge: Cambridge University Press.
- Blakeley, R. (2009), *State Terrorism and Neoliberalism: The North in the South*, Routledge Critical Terrorism Studies; London: Routledge.
- Chambliss, W. (1989), 'State-Organized Crime - The American Society of Criminology, 1988 Presidential Address', *Criminology*, 27 (2): 183-208.
- Cooper, H. (2001), 'Terrorism: The Problem of Definition Revisited', *American Behavioral Scientist*, 44: 881-93.
- Duggard, J. (1974), 'International Terrorism: Problems of Definition', *International Affairs*, 50 (1): 67-81.
- Dunlavey, M. (2002), 'Counter-Resistance Strategies (Memorandum for Commander, US Southern Command)', 11 October, <http://www.torturingdemocracy.org/documents/20021011.pdf> (accessed 18 October 2008).
- Foucault, M. (1977), *Discipline and Punish. The Birth of the Prison*, trans. Alan Sheridan; London: Penguin Books.
- Gibbs, J. (1989), 'Conceptualization of Terrorism', *American Sociological Review*, 54 (3): 329-40.
- Greenberg, K. and Dratel, J. (eds.) (2005), *The Torture Papers. The Road to Abu Ghraib*, Cambridge: Cambridge University Press.
- Gurr, T.R. (1986), 'The Political Origins of State Violence and Terror: A Theoretical Analysis', in Michael Stohl and George Lopez (eds.), *Government Violence and Repression: An Agenda for Research*; New York: Greenwood Press, Inc, 45-71.
- Gutierrez, T. (2005), 'Lynn England Convicted in Abu Ghraib Trial', *USA Today*, 26 September 2005.
- Haynes, W.J. (2002), 'Counter-Resistance Techniques (Action Memo from William J Haynes, General Counsel, to Secretary of State for Defense Donald Rumsfeld)', 27 November, <http://www.torturingdemocracy.org/documents/20021127-1.pdf> (accessed 18 October 2008).
- Hersh, S. (2004), *Chain of Command. The Road from 9/11 to Abu Ghraib*; London: Penguin Books.
- Hoffman, B. (1998), *Inside Terrorism*; New York: Columbia University Press.
- ICRC (1949), 'Convention (III) Relative to the Treatment of Prisoners of War.' <http://www.icrc.org/ihl.nsf/7c4d08d9b287a42141256739003e636b/6fef854a3517b75ac125641e004a9e68> (accessed 2 May 2005).
- (2003), 'International Humanitarian Law and International Human Rights Law: Similarities and Differences', [http://www.icrc.org/Web/Eng/siteeng0.nsf/htmlall/57JR8L/\\$FILE/IHL_and_IHRL.pdf?OpenElement](http://www.icrc.org/Web/Eng/siteeng0.nsf/htmlall/57JR8L/$FILE/IHL_and_IHRL.pdf?OpenElement) (accessed 6 June 2005).
- Jenkins, B. (1980), 'The Study of Terrorism: Definitional Problems', *The RAND Paper Series*; Santa Monica: The RAND Corporation, <http://www.rand.org/pubs/papers/2006/P6563.pdf> (accessed

- Keaney, T. and Cohen, E. (1993), 'Gulf War Air Power Surveys (Volume II, Part II)', <<http://www.airforcehistory.hq.af.mil/Publications/Annotations/gwaps.htm>> (accessed 30 July 2009).
- Kelly, J. (2003), 'Estimates of Deaths in First War Still in Dispute', Pittsburgh Post-Gazette, 16 February, <<http://www.post-gazette.com/nation/20030216casualty0216p5.asp>> (accessed 5 November 2009).
- Laqueur, W. (1986), 'Reflections on Terrorism', *Foreign Affairs*, 65: 86-100.
- (2003), *No End to War: Terrorism in the Twenty-First Century*; New York: Continuum.
- Milbank, D. (2004), 'Bush Seeks to Reassure Nation on Iraq', *Washington Post*, 25 May 2004.
- Mitchell, C., et al. (1986), 'State Terrorism: Issues of Concept and Measurement', in Michael Stohl and George Lopez (eds.), *Government Violence and Repression: An Agenda for Research*; New York: Greenwood Press, Inc, 1-26.
- Nicholson, M. (1986), 'Conceptual Problems of Studying State Terrorism', in Michael Stohl and George Lopez (eds.), *Government Violence and Repression: An Agenda for Research*; New York: Greenwood Press, Inc, 27-44.
- Peters, E. (1985), *Torture*; New York: Basil Blackwell Inc.
- Raphael, S. (2007), 'Putting the State Back In: The Orthodox Definition of Terrorism and the Critical Need to Address State Terrorism', paper given at British International Studies Association Annual Conference, Cambridge, UK, December 2007.
- Silke, A. (2004), *Research on Terrorism: Trends, Achievements and Failures*; London: Frank Cass.
- Stohl, M. (2006), 'The State as Terrorist: Insights and Implications', *Democracy and Security*, 2: 1-25.
- Taguba, M.G.A. (2004), 'Article 15-6 Investigation of the 800th Military Police Brigade', Washington DC: US Department of Defence.
- Vidal-Naquet, P. (1963), *Torture: Cancer of Democracy*; Middlesex: Penguin Books.
- Walter, E.V. (1969), *Terror and Resistance*; Oxford: Oxford University Press.
- Walzer, M. (2000), *Just and Unjust Wars* Third Edition edn.; New York: Basic Books.
- Weinberg, L., Pedahzur, A., and Hirsch-Hoefler, S. (2004), 'The Challenges of Conceptualizing Terrorism', *Terrorism and Political Violence*, 16 (4): 777-94.
- Wilkinson, P. (1992), 'International Terrorism: New Risks to World Order', in John Baylis and Nick Rengger (eds.), *Dilemmas of World Politics: International Issues in a Changing World*; London: Clarendon Press, 228-57.