1 State terrorism in the social sciences

Theories, methods and concepts

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Introduction

The governments of many countries have used repression against their own and external populations. This has included terrorism. Yet there has been relatively little research on state terrorism within the discipline of international relations and even less on state terrorism by liberal democratic states from the North (Blakeley 2008; 2009). Some scholars even argue that political violence by states should not be classified as 'terrorism'. I begin by exploring the core characteristics common to existing definitions of terrorism. I show that states should not be precluded as potential perpetrators of terrorism because those core characteristics are concerned with the actions involved in terrorism, rather than the nature of the perpetrators. I then set out the key elements that must be present for an act to constitute state terrorism. I show that a defining feature of state terrorism, and that which distinguishes it from other forms of state repression, is its instrumentality because it involves the illegal targeting of persons that the state has a duty to protect in order to instil fear in a target audience beyond the direct victim(s). In exploring state terrorism in relation to other forms of repression, I show that state terrorism always violates international law because of the methods used to instil terror. Last, I outline the main challenges involved in identifying state terrorism. These relate primarily to questions of agency and motive. Measures that can be taken to overcome these challenges are then proposed.

Defining state terrorism

For an act to be labelled 'state terrorism', its constitutive elements must be consistent with those of non-state terrorism. 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. They relate to the act

of terrorism, rather than the nature of the perpetrator. State terrorism receives so little attention primarily because many scholars focus on terrorism by non-state rather than state actors. Some do not even accept that terrorism by states should be equated with terrorism by non-state actors. Walter Laqueur, for example, has argued: '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 further argued that including state terror 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, because 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 sup-posed moral legitimacy of state violence. He claims that those who argue that 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 differenti-ate 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' had by contrast 'violated all these rules' (Hoffman 1998: 34).[2] This argument would only stand if it could be shown that states did not violate these rules, as set out in the Geneva Convention. 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 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 necessarily legitimate.

A helpful starting point in identifying the core characteristics of terrorism is the definition offered by Eugene Victor Walter (1969), for whom 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 ter-rorized witness to the violence will alter his or her behaviour. 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)

The emphasis here on the random nature of the terrorist attack may give rise to the assumption that states do not commit terrorism and instead can only commit acts of repression. Such arguments posit that states often try to suppress their opponents; if individuals oppose the government and are victims of state repression as a result, they are not really random targets. People know what they need to do to avoid state violence and need not, therefore, be terrorized if they are compliant. This argument is easily dismissed because it is implied that states can and will repress every single one of their opponents, precluding the possibility that their attacks are random. The reality is that even targets of state terrorism are selected fairly randomly from among all opponents, with the purpose of making an example of them to others. When states target opponents, the intention is not simply to terrify other opponents but to ensure that compliant citizens remain compliant. This highlights the importance of the distinction between state terrorism and repression. The difference lies in the instrumentality of state terrorism. There is a specific logic of not only harming the direct victim, but exploiting the opportunity afforded by the harm to terrorize others. That this instrumentality was captured by Wilkinson meant his definition contained all the core characteristics outlined by Walter. Equally important, in line with Walter, 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 argument is not far removed from Wilkinson's definition of terrorism, it retains one of the elements established by Walter that is missing from sub-sequent definitions (for example, Barker 2003: 23; Ganor 1998); namely, that the threat of violence is sufficient for a state to be perpetrating terror. I would add the caveat that a 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 instru-mental 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, I propose that state terrorism involves the following four key elements: (*a*) there must be a deliber-ate 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; (*b*) the act must be perpetrated by actors on behalf of or in conjunction with the state, including paramilitaries and private security agents; (*c*) the act or threat of violence is intended to induce extreme fear in some target observers who identify with that victim; and (*d*) the target audience is forced to consider changing their behaviour in some way. With the exception of Walter's definition, the definitions discussed argued that the change in behaviour in the target audience was to be political. In line with Walter, I do not make the same claim because states have frequently used violence to terror-ize 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.

International law and state terrorism

Before discussing the importance of the target audience in more detail, a few words on state terrorism in relation to international law are warranted. State ter-rorism has not been codified in international law as an illegal act. It nevertheless involves acts which violate international law, with the aim of terrorizing others through those illegal acts. A case of state terrorism, as such, was never put to the legal test, although acts that violated international law and were intended to ter-rorize were tried as war crimes. In this regard, state terrorism can be defined with reference to the illegality of the acts it involves, even though we cannot argue that state terrorism itself is illegal.

State terrorism involves the deliberate targeting of individuals that the state has a duty to protect to invoke terror in a wider audience. The deliberate target-ing of civilians, 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 peace-time and during armed conflict. The most funda-mental of these liberties are: the right to life; the prohibition of torture or degrad-ing 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 prohibited acts include: killing prisoners of war; subjecting them to torture; and other degrading treatment or punishment (ICRC 1949). Where the laws prohibiting such acts are violated, states may also be guilty of state terror-ism, as I will show. IHL also deals with the thorny question of which 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 second-ary effect of certain actions deemed to be legitimate in armed conflict. IHL is therefore concerned with ensuring that maximum effort is made to protect civil-ians 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 the use of strategic aerial bombardment shows.

Military planners will argue that the aim of aerial bombardment is to attack strategically significant targets. This can, but does not always, include the target-ing of a civilian population with the intention of terrorizing to provoke a political response. Terrorizing the civilian population is not necessarily always the primary objective of an air campaign, but it can be a welcome secondary effect. For example in Operation Desert Storm, the US-led campaign against Iraq in 1990–91, 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: 3, chapter 6). The target categories drawn up by the planners also indicated that civilians were not intended as direct targets (Keaney and Cohen 1993: 3, chapter 6). The authors of the Gulf War Air Power Surveys claim the air campaign had not only been 'precise, efficient and legal, but had resulted in very few civilian casualties' (Keaney and Cohen 1993: 3, chapter 6). A Greenpeace International study estimated between 5,000 and 15,000 civilians were killed as a direct result of sorties flown against strategic targets in the war (Arkin *et al.* 1991: 46–7). The Greenpeace report highlights the catastrophic human impact of the air campaign, caused by the devastation of the Iraqi infra-structure and the intense environmental degradation caused by the bombing (Arkin *et al.* 1991: 5). This destruction was a result of the intensity of the air campaign. As Greenpeace reported: '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 minimize the secondary effect of terrorizing 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. For example:

> 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.
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> (Keaney and Cohen 1993, vol. ii, part ii, chapter 6:19)

Aerial bombardments that killed between 5,000 and 15,000 civilians, and that were sufficient to cripple the entire electricity-generation capacity of modern cities such as Baghdad and Basra, were 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. Indeed, it was hoped that the population would be sufficiently 'psychologically affected' (a euphemism for 'terrorized') that opposition to the regime would increase. Rather than try to prevent the terrorizing of the population, those involved in planning the air campaign actively encouraged it, even though this was illegitimate, according to IHRL.

Some IHRL treaties permit governments to derogate from certain rights 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 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 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 repression, 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 more humane if the perpetrator is a state.

The importance of the target audience

What differentiates state terrorism from other forms of repression is the intent of the actor to create extreme fear among an audience beyond the direct victim of the violence. That audience may be a domestic audience and it may be a limited one, consisting of only the immediate acquaintances of the actual victim. The number of victims is significant because it helps us to make an important distinction between isolated incidents of what we might determine to be repression or criminal activity 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 repression are subjected to torture. In some cases, torture is carried out covertly and is aimed primarily at tormenting the victim. Of course, it violates international law. For torture to constitute state terrorism it must be aimed at, or have the effect of, terrorizing an audience beyond the direct victim. Torture was used in history, very publicly, as a form of punishment, but also as a means of deterring criminal behaviour (Beccaria 1995 [1764]; Foucault 1977; Peters 1985; Vidal-Naquet 1963). Torture continues to be used as a means of terrorizing other, incarcerated detainees 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 prison walls. 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. Amnesty International reported:

> 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 terrorize the populations of entire cities. In some cases, a much more specific organization 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 terrorized if they came to know of the torture and murder of those individuals.

If torture occurs in complete secrecy and there is no audience to witness it, then 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 used torture secretly, 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. 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 on the one hand, and state terrorism on the other, thereby reserving the label of state terrorism for those acts which are condoned at some level by the state. I will discuss in more detail below how we might determine when individual acts are part of a wider policy of state terrorism and when they are simply isolated, illegitimate incidents.

Forms of state terrorism

Terrorism is used by states internally and across state boundaries against their own populations as a means of maintaining order and quelling political opposition. This involves a range of activities, including disappearances, illegal detention, torture, and assassinations. Terrorism was used in this way by, among others, the Latin American national security states during the Cold War. They targeted civilians at home to instil fear among a much wider population and they targeted their own citizens living abroad, in collaboration with other states, through programmes such as Operation Condor. This entailed intelligence-gathering and sharing and the kidnap, interrogation, torture, and assassinations of nationals of one Condor state – Argentina, Brazil, Uruguay, Paraguay and Chile – by its own agents or agents of other Condor states (Dinges 2004; McClintock 2001; McSherry 2002). States also use terrorism externally in pursuit of specific foreign policy objectives, either by undertaking limited campaigns of terror against specific individuals or groups, often officials of that state, using acts such as assassinations and bombing campaigns, or by engaging in much more generalized campaigns of terror which are intended to destabilize whole societies. More generalized state terrorism involves the following: acts of war that violate the Geneva Convention, including the torture and killing of enemy combatants that have been disarmed and the illegal targeting of civilians; hijackings; kidnappings; illegal detentions; torture and other degrading treatment. In both cases, there are varying degrees to which states are involved in terrorism. At times, they are the main perpetrators, deploying their own agents, such as armed forces or secret services, to engage in acts of terrorism (Stohl 2006: 7). States may also be

sponsors of terrorism by other entities. Domestically, sponsorship tends to involve covert support for paramilitary or vigilante groups, or pro-government extremists involved in acts of terrorism against the citizens of the state. Externally, this involves any or all of the following: lending ideological support to, providing financial or military support to, or collaborating and cooperating with, an external terrorist organization or state involved in terrorism against individuals or groups within its own or another population (Martin 2003: 81–111; Stohl 2006: 7). Such terrorism may include acts of war that violate the Geneva Convention, including: the torture and killing of enemy combatants who have been disarmed; the illegal targeting of civilians; disappearances; assassinations; hijackings; kidnappings; illegal detentions; torture; other degrading treatment; and terrorist attacks, such as the bombing of civilian targets.

The difficulties of identifying state terrorism

Central to determining whether a specific act constitutes state terrorism depends on establishing that the intimidation of a target audience beyond the direct victim was the intention of the state agents involved. 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 because they tend not to advertise their terrorist activities or intent (Chambliss 1989: 203–4; 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 constitutes state terrorism, because 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 agency and motive.

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

As discussed above, before concluding that a violent act by a state representative is an act of state terrorism, we are confronted with a number of challenges relating to agency and motive. We must first rule out the possibility that the act was simply an isolated criminal act by an individual with no sanction from the state. 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, often depends 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 first, whether violent acts by state agents are acts of state terrorism, and second, whether those acts are part of an institutionalized 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 of state terrorism, it is important to examine the reaction of the relevant officials and the state. If measures are taken swiftly to try to punish the perpetrator(s) through proper legal and disciplinary channels, and if there is no evidence of a broader pattern of such incidents, nor of the state sanctioning such activities, we might conclude that this is a criminal act by an individual or group and not an act deliberately enacted by the state to terrorize. This was indeed what the Pentagon and the administration of President George W. Bush 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 could not be sustained because there were very few prosecutions, sentences were light and punitive measures were 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 Tabuga 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 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 policies included: not affording protection under the Geneva Convention to detainees and allowing torture, such as: 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 persuade 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 subsequently were sanctioned by Defense Secretary 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 bargain deals (Gutierrez 2005). None of the senior officers implicated was brought to trial and there was no attempt to hold to account those in the Bush administration who had been involved in efforts to legitimize the 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 convey. 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 United States and various liberal democratic allies and carried out by security agents from many countries with appalling, human rights abuses (Blakeley 2009). Abu Ghraib, therefore, was not an isolated incident, but part of a much bigger pattern of terrorism sanctioned by the United States.

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. In the case of disappearances, it would be helpful to determine whether there were disappearances of other individuals critical of the state during the same period. Certainly, in the Latin American states during the Cold War, initially a small number of people assumed to be a threat to the regime disappeared, but these occurred in sufficient numbers to imply a pattern. In many cases, there was nothing terribly secretive about the means by which individuals were taken. In Argentina and Chile, for example, it was not uncommon for individuals to be taken by government agents in broad daylight. This would imply that the disappearances were as much a part of an attempt by the governments to intimidate their associates as an effort to remove political opponents. Examining the context of specific acts, therefore, can also help to indicate whether there was an intention on the part of the state to terrorize.

A further indicator of intention concerns the reasonably anticipated likely consequence of an act. For example, if 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 is meant to civilians. Similarly, if state agents are in the business of kidnapping political activists, the state cannot claim that it does not intend to terrorize other political activists. If such acts are carried out repeatedly, despite the state having already seen that civilians are killed and terrorized by the bombing and that political activists are fearful, we can conclude that this is the intended outcome of those acts and that the state, therefore, is committing acts of terrorism against civilians.

Unintended consequence as state terrorism

In some cases, groups within a society may be terrorized as a consequence of other repressive acts. This raises the question of whether we can argue that state terrorism has occurred if it is not the primary or only outcome of an action. 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 is not intentional, rather than one of a number of intentions of the act. If we apply this condition, an act of repression cannot be defined as state terrorism if it is primarily aimed at harming the victim, a secondary effect of which is to terrorize 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 terrorizing people associated with members of the National Liberation Front by publicly rounding them up, torturing, and assassinating them, did constitute state terrorism because terrorizing the target audience was the primary objective (Mitchell *et al.* 1986: 6).

Such a sharp distinction should not be made between terror as a secondary effect and terror 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 was only permissible providing it met the following four conditions:

> 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)

With regard to intentions, Walzer restates the third condition as follows:

> The intention of the actor is good, that is, he aims narrowly at the acceptable effect; the evil effect is not one of his ends, nor is it a means to his ends, and, aware of the evil involved, he seeks to minimise it, accepting costs to himself.
>
> (Walzer 2000: 155)

These conditions can be usefully applied to state terrorism, where it appears to be a secondary effect of some other act. 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 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 are to intervene in an attempt to prevent the genocide? Can 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 might not have intervened because they had been sufficiently terrorized 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 of 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 served as a tool of terror to deter opposition. Hitler stated:

> 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 when the terror is not a secondary objective, it may 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 minimize the secondary effect. It is difficult to envisage that a state involved in a genocidal policy would be too concerned about minimizing the ensuing terror among others outside of the targeted group, particularly where the terror may be instrumental to its overall objectives.

As with various phenomena in the social sciences, identifying state terrorism and determining whether it is used instrumentally in pursuit of a state's objectives requires that we make judgements concerning the agency and motives behind specific acts. To label legitimately violent incidents by state representatives as state terrorism, those incidents should not be analysed in isolation but with reference to the wider context. This helps to 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 are 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 has been committed and to confirm that it is part of a wider, institutionalized policy of terrorism.

Conclusion

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 state representatives, 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. This can be, but is not limited to, their political behaviour. The key ingredients identified are entirely consistent with existing definitions of terrorism. It is the intent of the actor to create extreme fear among a target audience that differentiates state terrorism from other forms of state repression, as well as from criminal acts on the part of state agents who are not part of a broader strategy of state terrorism. The audience can be a very specific audience or a much broader one. Where widespread state terrorism takes place, it may emerge from the use of other forms of repression, where the main objective is not to terrorize but where this is 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 of repression, it still constitutes state terrorism. While state terrorism has not been deemed illegal in international law, the acts it involves are criminal because they involve the illegal targeting of individuals that the state has a duty to protect.

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 violent acts by state representatives can be labelled state terrorism, and when acts of state terrorism are part of a wider, institutionalized policy. As with other atrocities, there is a scarcity of evidence that shows explicitly such acts to have been sanctioned by the state. We are therefore faced with considerable challenges in identifying agency and intent 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.

Notes

1 This chapter draws on material published in Blakeley (2009), chapter two. We are grateful to the publishers for granting permission for use of this material.
2 A more detailed critique of the work of these scholars can be found in Raphael (2007).

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