

# Some Controversies on Modern Terrorism

**Dr. Nenad Avramović<sup>1</sup>**

**Dr Marijana Mladenov<sup>2</sup>**

## Abstract

*Terrorism is the historical constant of the civilizing process of the development of human society. All the time the act of terrorism was characterized by violence, recklessness, fear production and the political goals of changing or preserving the existing model of social relations. The modus operandi of the manifestation of terror changed in accordance with the requirements of the time in which the changes in the technical and technological prosperity of society manifested and followed. As a socially destructive phenomenon, it has evolved from a national to an international global criminal act and as a multidisciplinary phenomenon is the subject of the study of political science, sociology, security, criminology, criminal law... The criminal laws of national legislations severely sanction terrorist acts without restricting the legitimate use of force as a means. Internationally, despite the significant codification of certain forms of terrorist acts, no consensus has been reached on defining this anti-globalization term. The absence of a universal definition, as the imperative international norm, is the resultant of the desire of the unipolar hegemon to interpret international law and relations in accordance with its own interests.*

**Keywords:** terrorism, international law, double standards, terrorist offenses, human rights

## I. Introductory Remarks

The thesis that terrorism has always been a determinant of the history of civilization is more or less generally accepted axiom. It is undisputed, too, that terrorism presents a security threat with a destructive desire to disrupt (which is the majority accepted view) or to provide a valid social system of relationships. One of the contradictions of the concept of terrorism, which the authors will elaborate in the paper, is the thesis that the means and methods of expression have changed and depended on the historical circumstances and the scientific and technological level of development of society.

The international effects and aims of the terrorist acts were also present in the early development of civilization and the fight for freedom and state sovereignty. However, globalization processes, which are intensified in the 20th century and further accelerated by the use of information technologies have further internationalized terrorism, giving it the epitome of a global phenomenon. The media's contribution to the "promotion" of

---

<sup>1</sup> Faculty of Law for Commerce and Judiciary in Novi Sad, University Business Academy in Novi Sad. Contact: avramovic.n@pravni-fakultet.info.

<sup>2</sup> Faculty of Law for Commerce and Judiciary in Novi Sad, University Business Academy in Novi Sad. Contact: alavuk@pravni-fakultet.info.

terrorism often exceeds the awful consequences which are produced by terrorist acts. Therefore, not without reason, the question arises – whether the public media word is in function of international public and human interest or the destructive goals of the terrorist actors.

It is an indisputable thesis in both legal doctrine and jurisprudence that a terrorist act is violence committed with a politically motivated intention to produce fear of a larger target group, including the general instability of a narrower or wider social group, including the international community. Also, in all national criminal justice systems, terrorism is one of the most serious crimes. In line with the societal danger of terrorist acts, even the most serious criminal sanctions are prevented. However, despite the general consensus at the national level of terrorism as a destructive phenomenon, where is a clear tendency to preserve the existing system of social relations, at the international level there is no universally accepted definition of terrorism.

In this paper we will try to answer the question why, although it is a global phenomenon, there is no universally defined concept of terrorism, despite the fact that it destructively affects the realization of human rights and freedoms as universal internationally accepted values. Of course, this will require an analysis of the causes of the emergence of terrorism, which, in addition to the political, often have their military, religious, ethnic, economic and social dimensions. We will also talk about the phenomenon of terrorism as a kind of resistance to globalization, which imposes an unconditional acceptance of Western stereotypes and renunciation of national and cultural identity, religious and historical genome with increasingly drastic economic stratification to positions rich North – poor South. Of course, in order to present these and some other controversies that accompany contemporary terrorism, we will first look at its historical development.

## II. Terrorism Through the History of Civilization

The historical roots of terrorism, despite its temporal distance and inadequate sources, are seen by many authors as a manifest form of resistance to the ancient tyrannies of the Greek and Roman states. Thus, Luis Rene Bere notes that terrorism is an appearance older than the ancient civilizations of Greece and Rome, and provides an example of the assassination of Gaius Julius Caesar by Marcus Brutus, a Roman noble and politician, 44 BC, and examples of the Sicarli religious sect and the struggle Zilota (a Jewish sect that openly fought Roman rule in Palestine from about 6 BC to the fall of Jerusalem), and acts of secret large-Islamic armed groups in the 12th and 13th centuries<sup>3</sup>.

The activity of the Tagi religious sect in the seventh century appears to some authors without sufficient argument as a precursor to terrorism. The violent Hindu sect of Tagi represents a religious group that used violence, namely robbery, and the victims of the robbery were sacrificed in honor of the goddess Kali. An analysis of the workings of the tags provided by outstanding British sources gives a comprehensive and reliable insight into not only their ritual actions, customs, lifestyles and content of

---

<sup>3</sup> Louis Rene Beres: *Terrorism and Global Security: The Nuclear Threat*; Westview Press / Boudler, Colorado, p. 8 Cited by R. Gaćinović, "Roots of Modern Terrorism," Legal Life, Journal of the Association of Lawyers of Serbia, Belgrade, no. 9, 2005, page 60.

the moral code, but also their criminal activities<sup>4</sup>. However, the activity of the sect indicates religious fanaticism, which is an integral part of modern terrorism, the indoctrination and recruitment of terrorists today. By the way, the British Empire, to which Tagi had inflicted political instability and economic losses, devastated the Tagi group after several centuries of persistent struggle.

In the nineteenth century, the Assasini or Hashashini<sup>5</sup> religious sects operated for almost two centuries in Iran, whose military-political goals were to conquer Baghdad and the surrounding regions, based on religious fanaticism and drug use. Members of the sect were recruited from the poorest sections of the society, and through the process of irresponsible religious affiliation and obedience, with drug addiction, they became fanatical killers who, through assassinations and robberies, for the purpose of obtaining property gain, built up their social status. Their religious extremism introduced martyrdom into practice, but the sect's activities, despite some common features, cannot be identified with modern-day terrorism. Because, the motive for joining a sect was not only religious fanaticism based on religious doctrine, but the "boon" of drug addiction and worldly indulgence.

### III. On Religious and State Terrorism

In addition to these instances of religious terrorism of particular groups that have emerged within Judaism, Islam, and Hinduism, history also record the emergence of religiously inspired institutionalized terror. An example of this is the Inquisition of the Catholic Church in the Middle Ages<sup>6</sup>. The Inquisition was first introduced as a religious legal institute by Pope Lucy III in the twelfth century as a means of combat against heretics, or persons who deviate from the official teaching of the Catholic Church. The inquisitors had the right to find, accuse and convict persons suspected of heresy and to use cruel torture by integrating both investigative and judicial functions in their activities. Thus, until the second half of the eighteenth century, history records events interpreted as a kind of precursor to terrorism, based on religious extremism and the religious policies of radically militant social groups.

Denominational terrorism (or as many call it religious) is carried out by religiously blinded terrorist groups based on religious indoctrination. The goal of religious fanatics is to fundamentally change the ruling social-political relations and establish a state-political system on religious grounds. It is manifested as terrorism by fanatic groups that carry out terrorist acts to establish religious values in society<sup>7</sup>.

All of the manifested forms who are considered to be precursors to acts of terrorism have taken place without the concept of terrorism being recorded in political doctrine and national legal systems. The emergence of this term, according to

<sup>4</sup> Simenunović, D.: *A Critical Review of the Determination of the Time of the Emergence of Terrorism and Its Precursors*, Military Work, No. 1. page 315.

<sup>5</sup> The Hashishini sect was founded by Hasan Ibn Sabah, who introduced himself as God's envoy on Earth, with the intention of pursuing military-political goals, with strict adherence to religion and enjoying hashish.

<sup>6</sup> Dictionary of Middle Ages ed Joseeph R. Stayer (New York: Shareles Scribner,s Sons. 1985)p. 483-489.

<sup>7</sup> Italian M.: *Security Management in Countering Terrorism and Combating Terrorism*. Media Center Defense, Belgrade, 2012, page 39.

some authors<sup>8</sup>, refers to the French bourgeois revolution of 1789 as a repressive means of the newly constituted authority established to restore public order in the post-revolutionary years. The new revolutionary government of Robespierre and Mara carried out acts of terror from the positions of state authorities, which suggests that this was state terrorism. Thus, the political motive of the new Jacobin government was to preserve the social-economic and political system of newly established relations, and the means of protection by its repressive threats and fears of terrorism were dubbed terrorist<sup>9</sup>. Terrorist measures were also applied during the American struggle for independence from the British Crown and against the British, as well as their sympathizers among the colonists. Terrorism, which until then was mainly related to political non-supporters of the current government, is taking on a new dimension – terrorism on behalf of the state.

Assassination, as a powerful political weapon introduced into the Assassini criminal practice throughout the Middle Ages, was again promoted in the second half of the nineteenth century, but now by anarchists, who gave it an international dimension. "With the advent of the new century, the nursery of international terrorism became imperial Russia, while the second focal point was Barcelona, where more than 80 explosive devices exploded between 1903 and 1909. In response, the government is following the strengthening and modernization of police forces and a tougher immigration policy<sup>10</sup>.

Recent history has also brought to light the examples of terrorism owed to Israel, Cyprus, Kenya and Algeria for their independence, as the political movements of these countries used terrorism against the colonial authorities. The Palestinians had launched rebellions against the British authorities before World War II, led by the Jewish terrorist organizations Irgun and Stern Gang. There were no rebellions during the war, but as early as 1944, three simultaneous bombings took place, and in 1946 the King David Hotel was mined, where the central office of the United Kingdom was located. These actions achieved their goal. The whole world paid attention to the struggle of these groups for independence, which aroused pity and support from powerful allies, which led to the end of Britain's rule over Palestine in 1948 and the establishment of the State of Israel<sup>11</sup>.

In the aftermath of World War II, terrorist acts are dubbed international and often become a strategy and a means of combat for political interests. Terrorist interventions are extremely violent, targets are unpredictable, targets are innocent people, acts with numerous victims and are adequately publicized by the media, and political motives with a wide variety of weapons and weapons of mass destruction with intention to cause fear.

When it comes to terrorist organizations, there is a steady increase in the number of individuals and organizations willing to carry out terrorism. Since the 1990s, recruitment of terrorists around the world, the establishment of terrorist training camps, the unification of militant groups in Indonesia, the Philippines, Singapore,

---

<sup>8</sup> Hoffman Bruce: *Domestic Terrorism*, Alpha National Book, Belgrade, 2000, page 11.

<sup>9</sup> During the first few years of the Jacobin rule, led by Robespierre, nearly 40,000 French aristocrats ended up on the guillotine.

<sup>10</sup> Hanhimaki, J.M.: Blumenau, B.: *An International History Of Terrorism – Western and Non – Western Experiences*, Oxon; Routledge, 2013., page 353.

<sup>11</sup> [centar.za.bezbednost.org/terorizam-osnove-i-nastanak/](http://centar.za.bezbednost.org/terorizam-osnove-i-nastanak/).

Malaysia, Thailand and Myanmar has been evident. There is a tendency for terrorist organizations to organize online. The best example is the "Al Qaeda" terrorist network. "Al Qaeda" terrorist cells are located in Southeast Asia, where there is the largest concentration of "Al Qaeda" members outside the borders of Afghanistan and Pakistan, in which its stem cells are located. "Al Qaeda" operative terrorist cells are located in 35 countries around the world<sup>12</sup>.

Finally, the "Al Qaeda" terrorist action on September 11, 2001 in the United States, has added to the modern terrorism the epithet and the global plagues of the modern world. The terrorist attack was accompanied by official representatives of the United States authorities, symbols of their world economic and military power, as well as other countries of Western neo-imperial domination, so that terrorist actions did not bypass Germany, Japan, Britain, France and Spain. The terrorist attacks have not bypassed the Russian Federation or traditionally unstable regimes in the Middle East.

#### IV. Definition of Terrorism

As a historical category, terrorism is the result of the social, political, religious and economic determinants that generate its emergence. The violence of terrorism as a civilization constant in different epochs has been interpreted differently, so depending on the ruling political stance, it has been a criminal event, a war of aggression or a liberating battle. The political context as the cause of the event, which should cause fear, of the projected goal as a consequence and of course of interpretation, was undeniable. Hence, terrorism has its linguistic, political, criminological, security, criminal and, more recently, international dimension.

Etymologically, the term terrorism is rooted in the word *terror*, which is Latin, in origin, meaning to cause fear, trembling, horror, and violence, while terrorism signifies the pursuit of terror, tyranny, and control of intimidation<sup>13</sup>. In most of the world's leading languages, such as English, French, Russian and German, terrorism is defined by the terms of perpetration of violence or terror driven by political goals.

The multidisciplinary notion of terrorism in any of the sciences that study it has no diametrical positions in its definition. Such a political definition of terrorism states that it is "an act of violence undertaken for political reasons to intimidate and mercilessly break the resistance of the one targeted"<sup>14</sup>. From the criminology point of view, terrorism is "the doctrine, the method and means of inciting fear and insecurity in the citizens through the systematic application of violence for the pursuit of political ends"<sup>15</sup>.

Similarly, terrorism is defined as a security phenomenon, with state authorities being mentioned as potential perpetrators. It is "a method of devising systematic use of violence for the sake of spreading fear among people, implemented by state authorities or organized groups to achieve specific political goals."<sup>16</sup> As a pragmatic science, criminology looks at terrorism as a criminal activity, that is, "a form of

<sup>12</sup> Bošković M.: *Criminological Lexicon*, Matica Srpska and University of Novi Sad, Novi Sad, 1999.

<sup>13</sup> Vujaklija Milan, *Lexicon of Foreign Words and Expressions*, Education, Belgrade, 1970, page 947.

<sup>14</sup> Political Encyclopedia, Contemporary Administration, Belgrade, 1975, page 1079.

<sup>15</sup> Bošković, M., *Criminological Lexicon*, Matica Srpska, Novi Sad, 1999, page 354.

<sup>16</sup> Djordjević, O., *The Lexicon of Security*, Partisan book, Belgrade, 1989, page 482.

organized criminal activity characterized by the commission of acts of violence, the execution of assassinations and abductions, the setting up of explosives and fires and the taking of dangerous acts"<sup>17</sup>.

Given that contemporary terrorism has acquired the attribute of international, it defines the doctrine of international law as "a form of political struggle conducted through individual terror, that is, violence and intimidation, which goes beyond the borders of a state"<sup>18</sup>.

## V. Academic Definitions of Terrorism

Certainly, the definitions of terrorism are derived from the research efforts of the theorists of the social sciences i.e. sociologists, political scientists, criminologists, experts in international law, criminal law... In addition to the characteristics of the scientific – theoretical field that defines them, they also carry the individualities of their creators. But, despite the differences arising from the multidisciplinary nature of the institute, which has the widest range of manifestations, both nationally and internationally, terrorism has essentially the same defining premises.

So theorist Petit Robert says "Terrorism is the use of violence to achieve political effects, individual or collective assassinations, overthrows in the form of conquering, preserving or exercising power directed by certain political bodies that seek to produce fear and insecurity"<sup>19</sup>. Professor at Georgetown University and Former senior RAND Corporation manager, both theoretically and practically concerned with terrorism, Bruce Huffman under terrorism means "intentionally creating and exploiting fear by violence or threatening violence to effect political change"<sup>20</sup>. Western theorists of terrorism, while respecting the unrestricted manifestation of acts of terrorism, have generally provided concise and general definitions. And Walter Laqueur from the Center for Strategic and International Studies in the United States also states that terrorism is "an unlawful use of violence, which causes panic and accomplishes political goals and innocent people represents target of attack"<sup>21</sup>. In international theory, however, there have been scholars who have tried to sublimate the constituent elements of terrorism and accurately demonstrate their involvement and significance in this deviant phenomenon.

Alex Schmit, one of the world's leading researchers on terrorism and violence, sought to formulate a consensus-based academic definition of terrorism in the early 1980s by analyzing 109 academic definitions, extracting key elements from them: Violence 83.5%, political component 65%, fear 47.5%, psychological effects 41.5%, victim-goal differentiation 37.5%, planned systematic action 32%, strategy, method of combat 30.5%, contempt rules 30%, extortion of consent, coercion 28%, publicity 21.5%, arbitrariness, random character, non-discrimination 21%, civilians, outsiders as victims 17.5%, intimidation 17%, expressed innocence of victims 15.5%,

<sup>17</sup> Aleksić, Z., Milovanović, Z., *Lexicon of Crime*, Vrelo, Belgrade, 1995, pp. 301-302.

<sup>18</sup> Mrivokapić B., *Lexicon of International Law*, Official Gazette, Belgrade, 2010, page 1064.

<sup>19</sup> White, R. Johnson: *Terrorism* (Translated by Roksanda Cirović), Alexandria Press, Belgrade, page 42.

<sup>20</sup> Hoffman B.: *Inside Terrorism*, Columbia University Press, New York, 2006, p. 40.

<sup>21</sup> Walter Laqueur, *Postmodern Terrorism: New Rules for an Old Game*, Forin Affairs, 1996, pp. 340-341.

collectivity, organization as executor 14%, symbolic aspect, demonstration to others 13,5% unpredictability, suddenness of violence 9%, covert nature 9%, repeatability, incidence of violence 7%, crime 6%, demands placed on third parties 4%<sup>22</sup>.

Given that the political component of terrorism is the dominant motive for executing, the greatest number of academic definitions has been provided by the authors of the political province. Thus, Simeunović defines terrorism as a multidimensional social phenomenon as "a complex form of organized group and less frequent individual or institutional political violence characterized only by frightening brachial physical and psychological, but also sophisticated technological methods of struggle, which are usually in times of political and economic crises, and rarely in conditions of achieved economic and political stability of a society, systematically try to achieve "big goals" in a morbidly spectacular way, and inappropriately given conditions, above all the social situation and historical possibilities of those who use it as a political strategy"<sup>23</sup>.

Of course, the point of view of jurists also starts from the most important elements of the concept of terrorism, with each author starting from the aspect of view that is the subject of his interest in defining the phenomenon. Thus, Vojin Dimitrijević under terrorism considers "an act of physical violence, which object is chosen to provoke strong psychic reactions, first of all fear, in a wider circle of people, in the hope that they will help to maintain or change behavior that is important for achieving a political goal, if such an act is not justified by the general interests that are determined independently of it and if it is not executed according to the rules normally applicable to the social aspects of the exercise of power"<sup>24</sup>.

According to criminologist Djordje Ignjatović, terrorism is "a form of struggle by social groups that do not have the power to influence social movements or at least not by the way it is defined by positive law"<sup>25</sup>. Criminal law dimension has the statement "Terrorism is a form of political crime characterized by the use of violence against civilians in the intention of intimidating the public and political decision-makers and forcing them to act or abstain in order to fully or partially achieve political or other social goals"<sup>26</sup>.

There are, therefore, no diametrically opposed opinions on the academic definition of terrorism. Although there is no generally accepted definition in the international scientific public, the formulation put forward by Kaseze as the "acceptable definition" of international terrorism has been rather differentiated: "A crime committed in order to provoke a state of fear in the public, among groups of people or certain individuals from political initiatives, for which it has no justification under any circumstances whatsoever, regardless of the political, philosophical, ideological, racial, ethnic, religious or other views which may be invoked for its legitimacy"<sup>27</sup>.

<sup>22</sup> Simeunović, D.: *Terrorism*, Edition Krimen, Belgrade, 2009, page 25.

<sup>23</sup> Simeunović, D.: *Terrorism*, Second Edition, Faculty of Law, University of Belgrade, Belgrade, 2009, page 80.

<sup>24</sup> Dimitrijević, V.: *Terrorism*, Workers' Press, Belgrade, 1982, page 37.

<sup>25</sup> Ignjatović, Dj.: *Criminology* (Eighth Edited Edition), Official Gazette, Belgrade, 2007, p. 283.

<sup>26</sup> Milošević, M.: *Terrorists: Victims and Criminals – Factors of Criminal Motivation*, University of Belgrade-Faculty of Security, Belgrade, 2009, page 48.

<sup>27</sup> Kaseze, A.: *International Criminal Law*, Belgrade, Belgrade Center for Human Rights, Belgrade, 2005, page 449.

Positive-legal solutions to the criminal legislation of more or less all countries in the world also hold such views. Thus, the Federal Law on Counteraction against Terrorism of the Russian Federation states: "terrorism denotes the ideology of violence and the practice of influencing decision-making by state authorities, local governments or international organizations related to intimidation of the population and / or other forms of illegal acts of violence"<sup>28</sup>.

The US criminal law regulations define terrorism as "an activity involving the use of violence or acts of danger to human life, which violate the criminal laws of the United States or of the States and are intended to: a) intimidate or coerce the civilian population; b) influence government policy through intimidation and force politics; and (c) influence the exercise of authority by means of massacres, assassinations or abductions"<sup>29</sup>.

The UK Terrorism Act, which, like the US, is one of the most common targets of terrorist attacks, provides similar criminal justice solutions. Terrorism means "The use or threat of taking an act to influence a government or an international organization through intimidation of the wider or only part of the public for political, religious or ideological reasons, and such action implies or causes the following: serious violence against persons; great material damage; endangering human life; serious health risk and security threat to the public, or serious interruption or interruption of the electronic system"<sup>30</sup>.

The Criminal Code of the Republic of Serbia also interprets the crime of terrorism in a similar way. Article 391 "who intends to seriously intimidate the population, or to compel Serbia, a foreign country or an international organization to do something or not to do it, or to seriously endanger or violate the basic constitutional, political, economic or social structures of Serbia, a foreign country or international organizations: 1) attack the life, body or freedom of another person; 2) abduct or take hostages; 3) destroy a state or public facility, traffic system, „common good or private property in a way that could endanger people's lives or cause significant damage to the economy; 4) hijack aircraft, ships or other essential transportation or carriage of goods; 5) manufactures, possesses, procures, transports, supplies or uses nuclear, biological, chemical or other weapons, explosives or radioactive materials or devices; 6) discharges dangerous substances or causes fire, explosion or flood...; 7) interrupts or suspends the supply of water, electricity or other basic natural resources that may endanger human life"<sup>31</sup>.

Even from a superficial comparative analysis of the above mentioned positive national criminal law formulations of terrorism, it follows that mandatory constitutive features of the crime are present in all laws. Reasons for different legal determinations are the product of specific national interests and the aspirations of states to sanction certain behaviors, while not only limiting the legitimate use of force in the suppression of terrorist activities. Often, due to the international dimension of

<sup>28</sup> Federal Anti-Terrorism Law No. 35-F 2006/2014, Russian Federation. <http://legislationline.org/topics/country/7/topic/5/04.03.2020>.

<sup>29</sup> 18 USC Ch.113B:TERRORISM, Internet: [uscode.house.gov/view.xhtml?path=prelim@title18part1/chapter113B&edition=prelim](https://uscode.house.gov/view.xhtml?path=prelim@title18part1/chapter113B&edition=prelim).

<sup>30</sup> Terrorism Act 2000, (Internet: <http://www.legislation.gov.uk/ukpga/2000/11/contents>, 04.03.2020).

<sup>31</sup> Article 391 paragraph 1 of the CC of Serbia, Official Gazette of the Republic of Serbia No. 85 / 2005, 88 / 2005, 107 / 2005, 72/2009, 111 / 2009, 121 / 2012, 104/2013, 108/2014, 94/2016, and 35 / 2019.



terrorist activities, their "operational" definition is based on the practical measures taken by the competent services of some countries.

Thus, the US Federal Bureau of Investigation (FBI), as the leading federal counterterrorism, criminal investigations and counterintelligence service, refers under the terrorism "international violent offenses committed by individuals and / or groups inspired or affiliated with certain foreign terrorist organizations" or "States", while domestic terrorism means "violent crimes committed by individuals and / or groups for the purpose of effecting ideological changes of a political, religious, social, racial or environmental nature that carry other domestic options"<sup>32</sup>. The interesting thing is that "its own" definitions of terrorism has The US Department of Foreign Affairs, the US Department of Defense, and even have the US Army counterterrorism manual. Each of these administrative definitions starts from its own competencies and tasks in the fight against terrorism dictated by the national strategy and interests of the United States.

## VI. Terrorism as an International Phenomenon

In the late nineteenth and early twentieth century, the assassinations of prominent statesmen in Europe and in America were the dominant *modus operandi* of anarchist groups and individuals. The assassination of Yugoslav king Aleksandar Karadjordjević, which took place on October 9, 1934. in Marseille by the Ustasha movement and the pro-Bulgarian wing VMRO one of the first classic acts of modern international terrorism. In November 1937, the League of Nations adopted two conventions on the prevention and punishment of terrorism in Geneva, but they did not enter into force because they were not ratified by the requisite number of states, and soon the World War II began, which put international terrorism aside.

The entire development of international criminal law is related to the constitution of the international community, and the first international criminal justice experience for the work of *ad hoc* military tribunals in Nuremberg and Tokyo sentencing German and Japanese generals charged with war crimes, crimes against peace and crimes against humanity committed during World War II. The United Nations codification activity in the post-war years resulted in the adoption of the Convention on the Prevention and Punishment of the Crime of Genocide (1948) and the Geneva Convention I for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, Geneva Convention II for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, Geneva Convention III Relative to the Treatment of Prisoners of War, Geneva Convention IV Relative to the Protection of Civilian Persons in Time of War (1949)...

History, therefore, confirms that the formation of criminal international law legislation has arisen as a result of a severe disruption of international order. The rule that international crimes and criminal behaviors are *post festum* styled as prohibited conduct in international instruments is present in the decades-long practice of the United Nations. An egregious example is the beginning of the work of the International Criminal Court, the establishment of which has taken more than half a century of work by the UN Commission on International Law. The formation of the Court was initiated

<sup>32</sup> FBI Official Website, (Internet: <http://www.fbi.gov/albuquerque/about-us/what-we-investigate>, 03/04/2020).

after the Second World War, and the Court began operations in 2003 without leading States of the world, United States, China, Russia, India, and a number of others have not ratified the Rome Statute and thus neither accepted the jurisdiction of the Court nor enacting legislation.

The creation of a universal international counter-terrorism treaty law was even more inefficient. Although resolution 177/II was adopted at the UN General Assembly in 1947, ordering the International Law Commission to make draft of a crime against peace and security of humanity, no international consensus has been reached to date on defining terrorism or a general treaty on anti-terrorist *ius cogens* content has been adopted. However, frequent terrorist offenses committed in aircraft were the reason for the adoption of the 1963 Tokyo Convention on Offences and Certain Other Acts Committed on Board Aircraft, and the 1971 Convention on the Suppression of Unlawful Hijacking of Hague Aircraft and the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation adopted in Montreal in 1971. By adopting these conventions *stricto sensu*, a global anti-terrorist codification of the regulations governing air traffic misconduct has been carried out.

When Western diplomats became targets of assassins, it was a signal that a UN Convention on the Prevention and Punishment of Crimes against Persons enjoying International Protection, including Diplomatic Agents, should be adopted within the UN. Until the 1970s, diplomatic and consular representatives of the SFR Yugoslavia were the targets of the assassination of Ustasha emigration, with international western power centers explaining it as the activity of political dissenters, rejecting the demands of Yugoslav diplomacy to pass a special convention on the protection of diplomats. Similar motives were the reason for the adoption of the 1979 International Convention against the Taking of Hostages, the 1997 Convention on the Suppression of Terrorist Attacks, the 1999 International Convention for the Suppression of the Financing of Terrorism, and the 2005 International Convention for the Suppression of Acts of Nuclear Terrorism.

Unlawful behavior in international relations is manifested not only through armed conflicts, but also through various forms of discrimination. Although the UN Corps of International Documents on Human and Civil Rights passed after the end of World War II, it took more than 20 years to adopt the Convention on the Elimination of All Forms of Racial Discrimination (1965) and the Convention for the Suppression of the Punishment of the Crime of Apartheid (1973). And, the Declaration for the Prohibition of Trafficking Black People was passed in 1815 at the Congress of Vienna, and the adoption of international rules guaranteeing racial and any other equality of people would endanger the economic interests of the leading colonial forces of the 19th and 20th century. Hence the "delay" with the adoption of the above mentioned acts.

The impact of regional international organizations on the creation of anti-terrorist regulations are also present but not effective enough. In 1977, the Council of Europe adopted the European Convention on the Suppression of Terrorism<sup>33</sup>, and in 2003 the First Additional Protocol expanded the catalog of incriminations to deny the character of a political offense and a politically motivated crime and to simplify the procedure for amending the Convention<sup>34</sup>. The Council of Europe adopted the new

<sup>33</sup> The Convention has been ratified and- Official Gazette of the FRY – International Treaties No. 10/01.

<sup>34</sup> See more in S. Mijalković, M. Bajagić, On the Amendments to the Provisions of the 1977 Convention on the Suppression of Terrorism, page 485.

Convention on the Prevention of Terrorism in 2005 and obliged States to amend their criminal legislation by criminalizing part of the preparatory actions for committing the act of terrorism. The Council has not adopted a unique definition of terrorism, and its efforts to unify anti-terrorist regulations across Europe have more political than legal scope. Within the European Union, there is a consensus on the fight against terrorism, but it is also more a political guideline than a peremptory norm. The EU Council Framework Decision on Combating Terrorism laid the foundations for the criminal law notion of terrorism and the main manifestations of manifestation as a starting point for harmonizing the substantive criminal law of the Member States of the Union.

Although the UN has the international legal capacity to pass imperative regulations and in the field of counterterrorism, which would achieve unification on a global level, it did not go beyond political consensus.

UN Security Council Resolution 1377, adopted in 2001, states: "The Security Council, represented at the ministerial level of member states, declares that acts of international terrorism present a challenge to all states and to humanity... that acts of terrorism everywhere threaten the dignity and security of people, undermine social and the economic development of all states and on a global scale undermine stability and prosperity, "and that the Security Council is" concerned about the recorded rise in terrorist acts in different world religions, motivated by intolerance and extremism"<sup>35</sup>.

## VII. Interests Interference to the International Consensus

The reasons why the international community has not adopted a unique universal definition of terrorism are complex. First of all, it is a social phenomenon that represents a historical dialectical social phenomenon whose manifestation forms are dictated by general social relations, first on the internal, but also on the regional, and today, on the global level. Second, the level of technical and technological progress dictated forms of manifestation of terrorist acts, but temporal constants have always been violence as a method of arousing fear and achieving a political goal as the ultimate intention of the perpetrator. Third, terrorism is a multidisciplinary institute and as such is the subject of political science, sociology, criminology, security sciences, criminal law... and each of these scientific disciplines treats it in accordance with its value judgments, which make a compromise definition objectively very complicated.

Fourth, by *default*, terrorism means the violent activity of an individual or marginal social group directed by the impetus of the existing state system. However, the history of civilization *per se* is full of examples of the fact that sovereigns for the sake of survival in power often applied terror to their own people or to the people and countries they subjugated. The use of terror as a mode of government, typical of some autocratic regimes, raises the question of the existence of the state, that is, political terrorism, and Walter Laqueur points out with the reason that "acts of terrorism perpetrated by police states and tyrannical authorities, in general, have killed thousands of times and caused more damage than all the pieces of individual terrorism combined"<sup>36</sup>. This observation is certainly true from the point of view that

<sup>35</sup> Gaćinović, R., *Terrorism*, Draslar Partner, Belgrade, 2005, page 47.

<sup>36</sup> Laqueur Walter, *The Age of Terrorism*, Boston: Little, Brown Co. & Co. 1987, page 146.

even the smallest state, with its coercive apparatus, has far greater potential terrorist capacity than the most organized terrorist groups. But on the other hand, it opens up a philosophical-political dilemma: if the undemocratic government emerged through a legitimate electoral process, who has the moral right to challenge the legality of acts of state bodies, except for the electoral base. Another form of state terrorism, in the broader context, is to provoke and even participate in low-intensity conflicts in other countries to achieve certain political or economic goals. These activities are generally secret because they are contrary to international law. In the event of a "break-in", a country that has engaged in terrorist activity will display it in front of the domestic and international public, depending on the situation, or as a legitimate act of war or retort. Of course, the role of the global media in the world will be to justify the intervention taken to protect democratic values and fight against terrorism. And, precisely, the policy of the double standards of the world's leading powers is one of the key reasons why no international consensus has been reached on establishing a generally accepted notion of terrorism.

Although terrorism is formally condemned by everyone in the world, in practice it has been confirmed that terrorism is nevertheless an effective weapon for achieving the political goals of particular national communities. History recalls that the UN organization formally condemned the operation of many terrorist organizations in the world, but the great powers did not always respect international law, because at some point they supported and strengthened the activities of terrorist organizations in many regions. Terrorist organizations are being unfairly treated as liberationists, with mass publicity creating a skewed opinion in the world. In this way, concrete assistance is provided to terrorist organizations, and the victim country is declared a creature of terror. This deprives her of the legal and legitimate right to fight terrorism in her territory. This is the case with the "KLA" and the "ANA" in Kosovo and Metohija. If this trend of double standards continues, the threat of modern terrorism will increase dramatically in many countries in the world<sup>37</sup>.

Finally, did the path of development of the greatest 21st-century terrorist, Osama bin Laden, who was a United States project during the Taliban's struggle against Soviet influence and founder of "Al Qaeda" and then became the largest US opponent, not *exempla docent* that terrorism is desirable while pursuing in goal of pursuing the interests of the great. And it was precisely Bin Laden and the terrorist attack on the United States on September 11, 2001 directed by him that led to the US declaration of a global war on terror, based on state retaliation. Anti-terrorist war involves preventive and repressive military action on the territory of states that cannot independently eliminate the terrorist threat, and often is the way to bring down undemocratic regimes in those countries. Such military interventions are, as a rule, acts contrary to international *ius cogens* norms that cause "collateral" innocent human casualties and great material damage. Thus, among other things, the absence of a universal definition, as an imperative international regulation, presupposes the supremacy of the great powers and the violent change of situation in international relations in accordance with their own interests, with "minor" disrespect for international law.

The global war on international terrorism is a kind of *cintadictio in adjecto*, as it threatens the basic values of the liberal democratic society of the West. The modern

---

<sup>37</sup> Gaćinović R.: *Why Terrorism is Hard to Define*, Proceedings of the Synergy Scientific Conference, Bijeljina 2010, page 430.

democratic state of the West is committed to respecting fundamental human rights and freedoms, multiculturalism and minimalist regulatory authority of national institutions in organizing the social community. However, in order to protect the individual from security terrorist risks, the modern Western state neglects and does not respect the fundamental human rights of freedom, privacy and the right to diversity. For example, "4.2 million surveillance cameras or one camera per 14 people have been set up in the UK. The world is gradually becoming a global *"Big Brother"* in which there will be absolute control and surveillance over each individual. If this tendency continues, Beck states, in the country of the Statue of Liberty, as well as in other democratic countries, there will no longer be unattended phones, uncontrolled emails or generally uncontrolled individuals. Today, justification is anti-terrorism, but such an expansion of power can, at any time, be applied to all other possible purposes"<sup>38</sup>.

Therefore, the modern anti-terrorist struggle derogates from the universal human rights, not only of terrorists, but also limits the rights of ordinary citizens to potential victims of terrorist acts from developing countries. In this way, the protagonists of mondialism and universal rules negate the neoliberal concept of the development of the modern world based on the assumption of the universally accepted civilizational values of the West. Globalization is an ideological concept that, through the construction of a new international world order, has resulted in the creation of an even greater gap between the developed and rich North and the underdeveloped and poor South. The consequence of the unfair distribution of world wealth is based on universal standards that ensure the hegemony of the Western world. Building standards threatens the economic and social, and then national, linguistic, cultural, and even religious, historical identity of "small" nations and states. If there is resistance to the "democratic" acceptance of general civilization standards, they are ultimately imposed by force and produce marked inequality in the North-South relation, which some authors call neo-colonialism. Undoubtedly, one of the most extreme forms of resistance to globalization is terrorism as a socially deviant phenomenon.

## VIII. Concluding Remarks

Terrorism is, no doubt, a socially deviant phenomenon in the history of human society. As such, in accordance with social circumstances and time of manifestation, he changed his *modus operandi*, but his violence, unscrupulousness, production of fear and political goals were and remain a constituent element of the term. With the development of science and technology and the intensification of international relations, it receives, in addition to the national, the epitome of an international social problem. As political science, sociology, criminology, criminal law, security science, international law are involved in terrorism... it is evident that this is a multidisciplinary social phenomenon. In addition to the constituent features of the crime, national criminal legislation contains specific forms of manifestation and does not limit the legitimate use of force in the suppression of terrorist activities. Modern

---

<sup>38</sup> Brčić Marita: *Terrorism and the Liberal Democratic State*, Proceedings of the Faculty of Philosophy in Split, 2007, page 16.

terrorism has become a global phenomenon today, but at the international level, despite the efforts of international organizations, no consensus has been reached on a generally accepted definition. The leading world powers with US on the lead, codify certain types of terrorist acts under international treaties, but avoid adopting *ius cogens* rules that would uniquely define the term terrorism. In the absence of universally accepted imperative norms of superpower, international law is interpreted in accordance with its political and economic interests, thereby creating a policy of double standards.

Descriptively describing contemporary terrorism (including state) and as an anti-globalization act, Noam Chomsky, alluding to US imperialism, describes in his work<sup>39</sup> the encounter of Alexander the Great who "haunts the whole world" and the ordinary sea pirate who "haunts one small sea", pointing out that the difference is between the two, only in the fact that Alexander the Great conquers the world with a large fleet, which makes him emperor, and the other an ordinary pirate ship, which makes him an "ordinary scoundrel".

### References

1. Aleksić, Ž., Milovanović, Z., *Lexicon of Crime*, Vrelo, Belgrade, 1995.
2. Beres Louis Rene: *Terrorism and Global Security: The Nuclear Threat*; Westview Press / Boudler, Colorado, p. 8 Cited by R. Gacinovic, "Roots of Modern Terrorism," Legal Life, Journal of the Association of Lawyers of Serbia, Belgrade, no. Sep 9, 2005
3. Bošković, M., *Criminological Lexicon*, Matica Srpska, Novi Sad, 1999.
4. Brčić M., *Terrorism and the Liberal Democratic State*, Proceedings of the Faculty of Philosophy in Split, 2007.
5. Chomsky Noam: *Pirates and Emperors, Old and New – International Terrorism as It Really Is*, Sources, Zagreb 2004.
6. Dictionary of Middle Ages ed Joseeph R. Stayer (New York: Shareles Scribner, with Sons. 1985) p. 483-489.
7. Dimitrijević, V., *Terrorism*, Workers' Press, Belgrade, 1982.
8. Gaćinović R., *Why Terrorism is Hard to Define*, Proceedings of the Synergy Scientific Conference, Bijeljina 2010.
9. Gaćinović, R., *Terrorism*, Draslar Partner, Belgrade, 2005.
10. Djordjević, O., *The Lexicon of Security*, Partizanska knjiga, Belgrade, 1989.
11. Hanhimaki, J.M., Blumenau, B.: *An International History of Terrorism – Western and Non-Western Experiences*, Oxon; Routledge, 2013.
12. Hoffman Brus, *Internal Terrorism*, Alpha National Book, Belgrade, 2000.
13. Hoffman B., *Inside Terrorism*, Columbia University Press, New York, 2006.
14. Ignjatović, Dj., *Criminology* (Eighth Edited Edition), Official Gazette, Belgrade, 2007.
15. Kaseze, A., *International Criminal Law*, Belgrade, Belgrade Center for Human Rights, Belgrade, 2005.
16. Krivokapić B., *Lexicon of International Law*, Official Gazette, Belgrade, 2010.
17. Laqueur W., *The Age of Terrorism*, Boston: Little, Brown Co. & Co. 1987.
18. Laqueur W., *Postmodern Terrorism: New Rules for an Old Game*, Forin Affairs, 1996.

---

<sup>39</sup> Noam Chomsky, *Pirates and Emperors, Old and New – International Terrorism as It Really Is*, Sources, Zagreb 2004, page 7.

19. Mijalković S., Bajagić M., *On the Amendments to the Provisions of the 1977 Convention on the Suppression of Terrorism*.
20. Milošević, M., *Terrorists: Victims and Criminals – Factors of Criminal Motivation*, University of Belgrade-Faculty of Security, Belgrade, 2009.
21. *Political Encyclopedia*, Contemporary Administration, Belgrade, 1975.
22. Simeunović, D., *A Critical Review of the Determination of the Time of Emergence of Terrorism and Its Precursors*”, Military Work, No. 1.
23. Simeunović, D., *Terrorism*, Krimen Edition, Belgrade, 2009.
24. Simeunović, D., *Terrorism*, Second Edition, Faculty of Law, University of Belgrade, Belgrade, 2009.
25. Talijan M., *Security Management in Countering Terrorism and Combating Terrorism*. Media Center Defense, Belgrade, 2012.
26. White, R. Johnson, *Terrorism* (translated by Roksanda Ćirović), Alexandria Press, Belgrade. [securitycenter.org/terrorism-basics-first/](http://securitycenter.org/terrorism-basics-first/)
27. Vujaklija M., *The Lexicon of Foreign Words and Expressions*, Education, Belgrade, 1970.
28. The Convention on the Suppression of Terrorism has been ratified and- Official Gazette of the FRY – International Treaties No. 10/01.
29. Criminal Code of the Republic of Serbia, Official Gazette of the Republic of Serbia No. 85 / 2005,88 / 2005,107 / 2005, 72/2009, 111 / 2009,121 / 2012, 104/2013, 108/2014, 94/2016, and 35 / 2019.
30. Federal Anti-Terrorism Law No. 35-F 2006/2014, Russian Federation. <http://legislationline.org/topics/country/7/topic/5/04.03.2020>.
31. Terrorism Act 2000, (Internet: <http://www.legislation.gov.uk/ukpga/2000/11/contents,04/03/2020>).
32. 18 USC Ch.113B: TERRORISM, Internet: [uscode.house.gov/view.xhtml?path=prelim@title18part1/chapter113B&edition=prelim](http://uscode.house.gov/view.xhtml?path=prelim@title18part1/chapter113B&edition=prelim).
33. FBI Official Website, (Internet: <http://www.fbi.gov/albuquerque/about-us/what-we-investigate,03/04/2020>).