A freedom fighter, or terrorist?

The recent surge in " Terrorism" as a phenomenon has been unparallel in modern history. It now features as one of the top priorities in government agendas for most of the countries around the world. It is debatable whether it has been hyped up to some extent but unarguably has been one of the most unfortunate trends that have made considerable impact on the way of life for all.

The security agencies, religious heads, community leaders, experts and such, are all facing a mammoth task of tackling the menace. It is costing governments billions of pounds in loss of lives, properties, trade and importantly confidence. Due to sensitive nature of the issue, involvement of varied drivers, the lethal cocktail of domestic and international politics, the lack of political will to identify root causes, bungled intelligence information and importantly its geographical spread covering all continents are some of the contributing factors that has left the modern world exasperated.

The importance of differentiating and defining the legitimate and unlawful has become academic and a matter of statute. This unfortunately has not helped the bigger cause of tackling the issue in a fair manner thus leaving lives of common people at increasing risk. The debate about values of civil society and rights of the oppressed has blurred and can be argued, to such an extent that no common consensus exists in relation to what is acceptable and what is not, leaving ordinary people confused and causing rift between different communities. This however does not diminish the importance of reaching an amicable definition, the need for it is more than ever before, especially to uphold the values of liberty, fairness and democracy in a volatile society.

The discussion will elude to some relevant issues in the context of background, causes, and legislation and will endeavour to arrive at a satisfactory definition that hopefully would distinguish the ' freedom fighter' from the ' terrorist'. This discussion would take into account both national and international scenarios on the basis that the phenomenon is not restricted to UK alone and indeed the definitional problems it poses worldwide, as incidentally does the threat of violence from it.

Background

The Freedom Fighter:

To allow this discussion to evolve and formulate, it is imperative to define and differentiate between a ' freedom fighter' and a ' terrorist'. The term freedom fighter can be defined as being for those engaged in a struggle to achieve political freedom for themselves or obtain freedom for others[1]. The common conception of a ' freedom fighter' is that it is someone who opposes a cruel or unfair government by fighting against it, using weapons usually as a part of an organised group[2]or even someone who uses violent action, or threats of violent action, for political purposes[3]. These general definitions provided from varied academics, saturate an area which is already filled with many views and opinions on the definition of such word and how it should be classified.

The Terrorist

The term ' terrorist' has also been attempted to be defined as being the systematic use of terror especially as a means of coercion[4]. It has also been classed as someone who use violence in order to achieve political aims[5]or a person who uses violent methods to try to remove a government

from power[6]. A ' terrorist' in a definitional sense connotates acts of violence being carried out, in order to fulfil aims.

The resistance movement can be clearly termed as activities involving conflict of some nature. The conflict mainly against the authorities as the above definitions seems to presume. The purpose of achieving ' political freedom or aims' indicates opposing some political establishment. It also however signifies restriction of liberty and free will and either a violent or non-violent approach to break these restrictions to make inroads for the organisations willing to do something about it.

People who are described as " freedom fighters" are often also called in popular culture as assassins, rebels, insurgents, or even terrorists. This leads to the dictum " one man's terrorist is another man's freedom fighter"[7], which poses the difficulty that governments are faced with when trying to define it. A ' freedom fighter' could be meant to consist of someone who will fight for the cause of freedom but as we thoroughly discuss, traditional use of such terminology in popular media is confined to those who are engaged in violent behaviour and those who ' fight for freedom' peacefully are disregarded for the reason that violence by other groups whom claim to be ' freedom fighter', cast a shadow over them. This also poses the validity of using term ' armed rebellion' as it is linked to violence outside the sphere of traditional terrorism. Nelson Mandela and Yasar Araafat were initially branded terrorists only to be recognised as diplomats and freedom fighters, even though the factions they were linked to were directly responsible for the loss of numerous lives and creating social disorder. In crude comparison even Osama bin Laden was encouraged and supported by US to fight Russia

to protect their strategic interest in the area[8]. It is ironic that he is now the most wanted man on the earth. The perceived transformation of terrorist to freedom fighter and vice versa in context of their roles blurs the definition even further. The term ' terrorist' and ' freedom fighter' has become distorted with the changing times. It is interesting to note that Seymour above has no qualms in making those blurred boundaries more prominent. His emphasis on differing universal values attached to the activities instead of the blanket definition is worth noting and he suggests that they are the same entity and the difference between them both is only a matter of a opinion and a subjective view.

International Perspective:

The history of resistance movement goes back to from 1 AD to 6 AD according to various historians, even though no concrete evidence exists as to when the usage of the word ' terrorism' came into existence[9]. Various studies have found over 100 definitions of " terrorism"[10]and this coupled with the fact that the term is politically and emotionally charged greatly compounds the difficulty of providing a precise definition[11]. Throughout the 1970's and 1980s, the United Nations (UN) strived to classify ' terrorism', but the implementation of such definition concluded to fail as member states found it difficult to verify it, in regards to the use of violence for national liberation and self determination[12]. This was mainly due to Palestine movement which was not only whole heartedly supported by the Middle-East but countries in South Asia, Russia, China and Africa also provided tactical support to the cause as and when it was required. The solidarity groups across the world staged peaceful demonstration on regular basis, mainly to

keep the momentum going. The active ' freedom fighters' or comrades of the movement also got involved in violent activities inside and outside of the mainland Palestine. This always posed problems for the countries that hosted such groups and they refrained from making any supporting statements when the activities resulted in loss of lives and destruction of properties. This showed how freedom fighters can immediately become terrorists or undesirables through the actions they undertake. The United Nations General Assembly uses the commonly agreed ' political' definition of terrorism when condemning such acts[13]. The declaration reads:

Criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes are in any circumstance unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or any other nature that may be invoked to justify them[14].

The absence of term ' violence' in the above declaration and it's reliance on general criminality of the acts makes it less influential and renders it incapable to deal with modern day trend, which is more complex and extraordinary. It is safe to assume that the criminal laws of any country, irrespective of their political structure must be quite effective in dealing with criminal acts and the declaration ignores variety of internal and external threats the countries may face, such as risk to infrastructure, utilities, national treasurers, technology and others.

Due to severity and the new reality that has dawned following 9/11 attacks, then Secretary-General, Kofi Annan, described the terrorist attack on USA as

" an attack on humanity as a whole, without definition, all terrorism to be condemned whatever the political origins"[15]. This was a progressive step forward and highlighted the need for rigorous definition and a ' zero tolerance' approach. There was also an acknowledgement and underlying message of not getting too wrapped up with the legal clarity about the definition and instead to tackle the issue at hand in a non-negotiable but effective manner. It is also worth noting the usage of term ' whatever the political origins', as a conflict of any political nature was considered as a trigger point that may result in terrorism and a battle for self determination.

It must be observed that since the rise of ' terrorism in the west', the Patriot Act 2001 was enacted in the United States of America (USA), which attempted to define terrorism as being " premeditated, politically motivated violence perpetrated against non-combatant targets by sub-national groups or clandestine agents, usually intended to influence an audience"[16]. This definition has no consideration of the social factors for the cause of terrorism and attempts to infer that political pressure is the only aim . The Act was described as " a pendulum reaction to 9/11 event by Lord Carlile[17]. The act was scrutinised by both major parties in the USA as it encroached upon and showed scant regard for liberties of the individual[18].

The UN has made several resolutions to allow uniform adoption of counter terrorism measures. The United Nations Security Council Resolution 1373[19](2001) was seen as a response to 9/11 and since as become a pillar of the ' global legal framework for the prevention and suppression of terrorism'.[20]The introduction of such resolution meant that countries such as Japan took steps in order to freeze the assets of many individuals[21].

However it must be noted that although the counter terrorism measure in this resolution were adopted, the resolution failed to define terrorism and persisted to include Al-Qaida and Taliban within the framework of defining terrorism. Further attempts have been made from the UN to understand the growing threat of terrorists. UN Security Council Resolution 1566 defined terrorism as being:-

" criminal acts, including against civilians, committed with the intent to cause death or serious bodily injury, or taking of hostages, with the purpose to provoke a state of terror in the general public or in a group of persons or particular persons, intimidate a population or compel a government or an international organization to do or to abstain from doing any act."[22]

This definition takes into consideration of the wide scope of damages that terrorism could cause such as in taking the lives of civilians and does not restrict it to just political aims or in times of war. The further need for a strict definition was attempted also by Tamar Meisels whom advocates a consistent and strict definition of terrorism, which she defines as " the intentional random murder of defenceless non-combatants, with the intent of instilling fear of mortal danger amidst a civilian population as a strategy designed to advance political ends[23]. This definition seems in include an aim again and shows that violence and instilling fear are the key components of the behaviour of a terrorist.

The history of Palestine Liberation Organisation (PLO) and African National Congress (ANC) is riddled with violence, kidnapping, civil disorder, threats, incitement in order to achieve the aims of these organisations, which in

effect was self-determination, freedom, justice, equality, fairness and so on, similar aims of the ' freedom fighter'. The rights of the Palestinian people to self determination has been recognised by the many organisations around the world including the security council and the international court of justice and most importantly even by Israel as well. About 100 nations recognize Palestine as a state[24]. In 1990, the successful negotiations between the government and ANC resulted in ending apartheid, culminating in multi-racial democratic elections in 1994, which were won by the African National Congress under Nelson Mandela[25]. In both the above cases the uprising was internally and externally supported by individuals, organisations and governments across the world. The campaign highlighted the injustices, segregation, and deprivation of basic human rights of indigenous people that became magnet for people to protest against it. It also gave platform for other people and groups internally and sometimes externally to participate in the struggle in a non-violent way. The justification of methods within an organisation is met with the internal wrestling between the political arm and the branch that deals with rebellion by way of force. This has meant that disputes within groups stagnate further development for their cause. There has been an increasing interest at the international level in supplementing traditional human rights principles with rights for minorities within in each group. For example, the Conference on Security and Cooperation in Europe adopted a declaration on the Rights of National Minorities and established a High Commissioner on National Minorities in 1993[26], this being significant as within the international framework, the rights of minorities are being protected in reaction to terrorism diluting their rights in certain states.

Similarities and Differences

The above definitions and backgrounds provide useful information on making an informed decision on the similarities and differences between the two. The overlapping of some triggers and factors are inevitable and readers are urged to be cautious when taking a stand for and against the issue. Most of the formal definitions of terrorism and freedom fighter have some common characteristics mainly a fundamental motive to make political or societal changes through use of violence or illegal force.

The terms have stark differences as well. The use of violence perpetrated by terrorist is random and does not take into account the destruction of lives and properties of innocent people. The freedom fighter on the other hand, targets governmental and military installations with a view to bring them to the negotiating table. This is in contrast to terrorists' who aims to create fear and terror and instead issues orders and demands to surrender and may lack diplomatic channels, resulting in the approach taken by militants, both can command support. The terrorist's support comes from clandestine organisations and rouge states. The freedom fighter cause is celebrated and may get support from all sections of the society including democratic institutions.

UK Context

There is no single definition of terrorism that commands full international approval. It remains the subject of continuing debate in international bodies[27]. Lord Carlile arrived at this conclusion after carefully researching the current terrorism laws that exists in 60 countries. The majority of countries selected for the study had either too broad or too narrow scope of

definition and importantly were designed to reflect specific political situation and threat of the individual country. Only few European countries had some similar features to UK legislation and context. The Terrorism Act 2000 was aimed to establish a sound definition of terrorism in the law with a view to introduce entirely new set of police and investigatory powers to deal with incidents that would be deemed beyond the ordinary violent offences. It also superseded and repealed some of the previous acts and provisions. Since 2000, the UK has enacted five main pieces of legislation to deal with terrorism[28]. Following the events of 9/11, legislation and security measures from the Government were under threat of not going far enough to deal with the issues raised by violence, such as terrorism. Following the events of 9/11, legislation and security measures from the Government were under threat of not going far enough to deal with the issues raised by violence, such as terrorism. In response to this the government initiated CONTEST (I and II) as the main authority for counterterrorism strategy for the UK. It was designed to ' take account of the evolution of the threat and of our understanding of the factors which are driving it'[29]. The latest conception of CONTEST attempts to deal with issue that foreign policy concerns breed violent extremism[30]. It endeavoured to define how foreign policy in the UK could act as a catalyst for people to turn to extremism.

' Real or perceived grievances, some international and some local, including in particular: a perception that UK foreign policy in the Muslim world (notably military operations in Iraq and Afghanistan) is hostile to Islam; the experience of wider conflict in the Muslim world and conflict involving Muslims (often attributed either to western intervention or to western

indifference); and a range of domestic issues, including racism, inequalities and the experience of criminality and migration.'[31]

This brings the paradoxical argument that, grievances such as the foreign policy of a country could lead to the radicalisation of those aggrieved, who in turn could result in fighting for the cause, and ultimately for the minority the perceived ' freedom fighter' could become an instrument of terrorist activities. It must be mentioned that he report conducted by Lord Carlile[32]where he defined terrorism and reviewed all legislation in relation to this topic, has now become a fundamental part of terrorism legislation

Terrorism Act 2000

The introduction of the Terrorism Act 2000 signified a huge step in the right direction in the attempts to define such violent acts. The act defined it as being an action which is designed to influence the government through a threat or to intimidate the public and threats made for the purpose for progress of a political, religious or ideological cause can be seen as terrorism, for the purposes of the act. These attempts show that the UK government had stretched the boundaries and attempted to define it. The act also cleared up discrepancies in regards to what type of damage or threats are caused. Section 2 of the Act also defines what type of actions can be inferred to be that of terrorists and includes actions which involve serious violence or serious damage to property. An action which endangers a person's life or a deed which creates serious risk to the public can be also be deemed as actions of terrorism. The act also attempted to cover the rise of technological warfare by including attempts to disrupt electronic systems can also fall under the heading of terrorist activities. It is imperative to

mention that the act also considered terrorist activities committed outside of the UK would still be classified as terrorist actions for the purpose of the act. This is important as the scope for ' actions' is wide thus allowing such actions to be classed as terrorist activities.

However, this act even with the attempts and inroads it has tried to make in regards to defining terrorism, has been met with criticisms chiefly from Lord Carlile's paper. He suggested that the act should include ' the use or threat is made for the purpose of advancing a political, philosophical, ideological, racial, ethnic, religious or other similar case'[33]. If the section 1 (1) (c) was to be amended in the 2000 act, it would provide a positive message by enhancing the legal clarity of the act. The Terrorism Act 2006 also extends the range of offences which can be classed as terrorism and included the term ' glorifies'[34], which can be meant as a novel word for a criminal offence. The amendments made by the 2006 Act, such as, glorification and mere preaching cannot be seen as terrorist actions, Lord Carlile was content with the protection that was in place in regards to the misusing of the clause ' preaching and glorification'[35]. Like the Patriot Act in the United States, the current UK law has been scrutinised due to the slow dissolution of key human rights such as right to privacy which allows the police excessive powers, which could result in misuse of them. The Terrorism Act has been wrongly exploited by authorities such as the Police force and Customs as they have often cited the Terrorism Act when combating terrorism when in fact in various cases these events are not connected to those of terrorism.

Another contentious issue arising from the act is section 44. This section involves the authorisations available to senior police officers if they believe

that it is " expedient for the prevention of acts of terrorism", they can confer powers to other police officers to search people and there is no requirement that the officers to do so on reasonable grounds. Stop and searches have been taken advantage of as those with no connection in terrorism can be targeted, such as protesters[36], however the police must have ' reasonable suspicion' that the person pursued is operating as a terrorist, according to the Home Office[37].

In many states across the world which breed terrorist organisations, the experience that they have such as poverty and hardship lead to the radicalisation of the masses. Recent research suggests that poverty and illiteracy as well as the conflict in Afghanistan and Iraq are key factors leading to religious extremism[38]. This has led to the school of thought that freedom fighters and terrorist have not always derived out of the same background and it is the ideology that they pursue which is different from one another.

Summary

The discussion on the said topic was approached with a view to define " Terrorist" and " Freedom Fighter", and includes researching various understanding of these terms and the views as expressed by national and international experts, including relevant legislations. The unique characteristics or commonality that compares and distinguishes both terms are vital in critically considering its legitimacy and legal status. The rapidly diminishing boundaries of terrorist and freedom fighter has not only left ordinary people confused but authorities struggling to provide legal clarity as well. The discussion also ask the questions to ponder on the necessity to

define these terms to the hilt at the expense of ignoring such a sensitive issue and in turn giving secondary preference to tackling the issue.

The Terrorism Act 2000 and subsequent legislation that followed like the Terrorism Act 2006 which made amendments to the 2000 act such as creating new offences in reference to the encouragement of terrorism which deals with the root cause of it[39], provides an insight into the UK's context and how counter-strategy with all it's teething problems and weaknesses remains at the heart of providing protection and stability to UK.

Conclusion

The exclusion of religious causes from the definition of terrorism is controversial and there is no discourse as it stands that political cause may be excluded from the definition, this also applies to an ideological cause. Can there be a religious cause which is neither political nor ideological? If so, should it be under the terrorism umbrella?[40]

The above questions bring the debate about ' root cause' to the fore. The counter-terrorism strategy identifies the importance of the role specific community should be playing. The Prevent strand aims to tackle the issue through community involvement. It is hoped that by identifying the underlying issues such as foreign policy, discrimination, deprivation etc the authorities would be in better position to address the issue through various community based and led initiatives. This however must not underestimate the importance of containing and eliminating the menace of terrorism through policing and judiciary means mainly via legislation.

The international community it seems are still divided over defining the term freedom fighter. The thin line that separates it from terrorist is too risky to be crossed. It also depends on individual country's foreign policy, e. g. The Middle East whole heartedly supports Palestine movement and some countries also give tactical support in form of funding, promotion etc. The argument with some of the western countries is that the funds can be easily channelled to terrorist causes and openly promoting the cause can have adverse effect on their relationship with Israel, not to forget the wrong message it would send to those elements who could resort to violence and derail the campaign.

The current definition of terrorism as it stands now in UK has been rigorously designed and implemented through proper policy making mechanism. The inherent weaknesses and the lessons learnt of abuse of powers since 2000 have either been amended or eliminated. The process of treating each case on merit and trying to identify the root cause can only exasperate the situation. The sensible approach route however would be to look at the end result. Did the activities result in illegal and random violence? Did it cause loss of lives of innocent people and destruction of properties? Have the perpetrators got legitimate concerns that can be resolved through negotiations? Is the issue of persecution, human rights visible and quantifiable?

The concept of Freedom Fighting is alien to current UK scenario. The robust laws and legislations in place, the mechanism of transparency and implementation of these laws, the equality and human rights, democratically elected local and central government, rights of citizen, checks and balances

of political and judiciary system etc are antithesis to the path of violent struggle for freedom. It is also equally true that any widely accepted and legitimate ' freedom struggle' outside UK such as Burma, Palestine etc must not be underrated. The UK citizens should have right to protest within the boundaries of UK law, including marching, publicity, awareness campaign, funding raising etc.