



I.P.O. ONLINE PAPERS

Terrorism and Counter-Terrorism

Towards a Comprehensive Approach

Lecture delivered at the invitation of the National Police Commission of the Philippines

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Transnational Policing

Introductory remarks by General Rogelio A. Pureza, Vice-Chairman & Executive Officer of the National Police Commission

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On behalf of the Philippine National Police, I would like to welcome all of you - most specially our good Dr. Prof. Hans Koechler - to this very important lecture. He will be introduced shortly by Comdr. Linda Hornilla of NAPOLCOM.

Professor Koechler's visit to the Philippine National Police is another proof of our strong intent to develop into a transnational police organization. Of the 14 transnational crimes now challenging our borders, international terrorism has taken the driver's seat. It has shaken the world. And the world is never the same again.

For the information of the good professor, the Philippine National Police is only an eleven-year old organization. We are still growing.

PNP was created to be civilian in character as every police organization in the democratic world is. What makes us different from other police organizations in the world is that our scope is national. We have a national chain of command that goes down to the lowest unit which we call police community precinct.

There is everything to learn from the vast knowledge of Professor Koechler. We should not be afraid to ask him the questions that matter. Neither should we be afraid to share the answers that count. Only by this means can we help the good Professor do well. For us and for our country.

It is in that spirit that I want to welcome all of you to this very important lecture.

THANK YOU VERY MUCH.

I shall deal with the issue of terrorism and counter-terrorism not in a strict security framework – as eventually defined by military and police strategies –, but in the broader context of reflections derived from legal, political and social philosophy, and I shall also pay attention to the socio-cultural environment in which the problem of terrorism arises.

First, I would like to present the general framework in which I locate the problem of terrorism and counter-terrorism. It can be described with the following simple maxim:

The best form of counter-terrorism is that which deals with the causes of terrorism and thus prevents the occurrence of terrorist acts.

Concentration on prevention, instead of only dealing with the symptoms, is the essence of what I call a *proactive* – as distinct from a *reactive* – policy for dealing with the problem of terrorism.

The philosophy underlying this approach was first outlined by the General Assembly of the United Nations after the terrorist attack at the Olympic Games in Munich in 1972. In the resolution adopted after these tragic events (Res. 3034 [XXVII] of 18 December 1972), the world organization placed terrorism in a comprehensive context dealing with the political and social environment in which terrorist movements emerge and develop. This approach becomes evident in the formulation of the special agenda item formulated by the Assembly at this time, which speaks of and refers to “measures to prevent terrorism and other forms of violence which endanger or take innocent lives or jeopardize fundamental freedoms” and which includes the “study of the underlying causes of those forms of terrorism and acts of violence which lie in misery, frustration, grievance and despair and which cause some people to sacrifice human lives, including their own, in an attempt to effect radical changes.”

When reflecting on the causes of terrorism, one is immediately confronted with the question of how to define the concept properly. Semantics, in this context, is not of merely academic concern. A precise, well-targeted counter-terrorism strategy can only be developed if we have a *clear concept* of terrorism, i.e. when we know what it is we have to prepare ourselves to fight against.

Up until now, no consensus exists in the United Nations system concerning a comprehensive legal definition of the term “terrorism.” And there exists simply no other institution or international body that would be competent to establish such a definition.*

In the absence of a generally agreed-upon definition, we have to work with a kind of operative – or implicit – definition derived from the usage of the term in international fora. In this regard, we may rely on the language of UN General Assembly resolutions, which represent the opinions of the international community in a more genuine way than the Security Council. For the purpose of definition, the wording of Par. 2 of General Assembly resolution 54/110 of 2 February 2000 is of special relevance: Terrorist acts are referred to as “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.”

This formulation implies state as well as non-state actors; it can also be applied to acts of national liberation movements but does not automatically lead to a position according to which their actions in general are branded as terrorist.

In addition to the maxim mentioned above about the essence of a counter-terrorism strategy (demanding that one deal with the causes, not only the symptoms of terrorism), I would like to add a second principle that can be summarized in the words “*avoid a simplistic approach!*,” i.e. an approach that excludes a comprehensive socio-economic analysis of the phenomenon.

A policy declaration of the kind: “make no concessions to terrorists and strike no deals; bring terrorists to justice for their crimes; isolate and apply pressure on states that sponsor terrorism; bolster the counter-terrorism capabilities of those countries that work with us and require assistance, etc.” is more geared towards waging a *propaganda war* than to actually dealing with the problem of terrorism in a serious and comprehensive manner.

Counter-terrorism must not be seen as a problem merely for the police and the military. In most cases, such a narrow, strictly security-oriented, so to speak “technical,” approach has proven to be ineffective – simply because it does not deal with the *causes* of terrorism and the related social environment.

In this regard, the approach proposed by the *Terrorism Prevention Branch* (TPB) of the United Nations (established in 1999 by virtue of a General Assembly resolution) is more

* On the issue of definition see our paper *The United Nations, the International Rule of Law and Terrorism*. Fourteenth Centennial Lecture delivered at the Supreme Court of the Philippines, Manila, 12 March 2002.

comprehensive and better balanced as far as the political complexities of the problem are concerned.

The “Classification of Counter-Terrorism Measures” published by the TPB, a branch of the Vienna-based United Nations Office for Drug Control and Crime Prevention, lists measures in the fields of, or related to: (1) politics and governance, (2) economic and social matters, (3) psychological-communication-educational aspects, (4) military matters, (5) judicial and legal aspects, (6) the police and prison system, and (7) intelligence and secret service activities.*

The *Counter-Terrorism Committee* (CTC) of the United Nations, established more recently by Security Council resolution 1373 (2001) of 28 September 2001, aims – in the words of its Chairman, Ambassador Greenstock (UK), at a UN press briefing on 10 January 2002 – “at raising the average global standard of Government action against terrorism.” In his statement to the media, the Chairman of the CTC insisted that “a stronger performance against terrorism in all its aspects, worldwide and indefinitely into the future,” must come in the view of “virtually all members of the United Nations.”

Because of the binding nature of Security Council resolution 1373 (2001), adopted under Chapter VII of the Charter, United Nations member states will be legally obliged to report on the steps they have taken to implement this resolution.

However, in the highly charged context of international power politics, particularly since September 11, 2001, the basic question – answered neither by legally binding resolutions nor through solemn governmental declarations – remains: *what terrorism?*

Do we include, for the sake of political expediency, any movement opposing a government by force (such as a secessionist movement, for instance)? Or do we include any movement struggling against foreign occupation (as in the case of Palestine)? What about movements for social justice insofar as they resort to violent means (as in some Latin American countries, for instance)? Do we also include certain state practices in the course of “regular” warfare such as carpet bombings (the so-called “terror bombings”), or the use of forbidden arms such as cluster bombs, depleted uranium missiles, and nuclear arms (which indiscriminately kill combatants and non-combatants alike)? The catalogue of questions of this kind is too long to be exhausted here. No enumeration will be complete or up to date in view of the rapid development of war tactics and methods.

* See *A Classification of Counter-Terrorism Measures* published by the UN Office for Drug Control and Crime Prevention (ODCCP) at http://www.undcp.org/terrorism_measures.html.

Again, it would be *over-simplistic* to label any armed group opposing a government as “terrorist” – particularly when the latter acts as occupying power in the territory to which the respective group (whether it is one of insurgents, secessionists, etc.) is attached. The most dramatic case in point is the way in which the State of Israel deals with the Palestinian resistance movement and its leader, Yasser Arafat. A propaganda-style approach, denying the very existence of the problem – as in the case of Israel’s dealing with the grievances of the Palestinians living under foreign occupation – never works.

This approach to developing a counter-terrorism strategy has proven to be generally ineffective; it has only fueled the conflict further, as everyone can see in the latest escalation of violence in the course of the second Palestinian *Intifadah*.

Criminalizing a resistance group, as has happened in the case of the present Israeli government’s dealing with the Palestinian uprising, is hardly an adequate means of solving the underlying problem. Denial of realities only intensifies the confrontation, prolongs the conflict and makes a political settlement more difficult. A mere “policing” approach, whether carried out – under the euphemistic slogan of “cleansing operations” – by police or military forces, will never be efficient if *efficiency* is defined as the problem-solving capacity of a specific counter-terrorism strategy finally aimed at sustainable peace in the area under dispute.

What, then, is an adequate counter-terrorism policy? If we take into consideration the comprehensive approach suggested above (which integrates classic security measures into an overall political and socio-economic strategy), we may enumerate a number of measures and guidelines (without claiming to establish an exhaustive list) on the basis of general considerations of political and legal philosophy as well as of ethics:

- A problem has first to be identified in its specific historical, political, socio-economic and cultural-religious context. There exist no simplistic general solutions for the entire world.
- An adequate categorization of the respective armed group or movement has to be undertaken – through carefully identifying the grievances expressed by it and scrupulously evaluating, *sine ira et studio*, the eventual popular support for the movement in the respective area. Such a measure will render any kind of counter-actions more specific and precise (in clear distinction from the somewhat “blind” reactions to security threats that may

suddenly emerge in an environment the political parameters of which are not properly understood).

- All *passive* measures of preventive security have to be improved, whether related to security arrangements for governmental installations or for public areas and services. Undoubtedly, such measures will never solve the problem; but they will make the actual occurrence of terrorist incidents less likely and will underline the determination of the state authorities in regard to the protection of the population.
- At the same time, one should seek to eradicate the social, economic, political, and cultural causes of the grievances that may be articulated by an armed resistance group. Even if it implies painful sacrifices on the part of the political and social establishment of a country, this measure should be given top priority in the shaping of any counter-terrorism strategy. Serious reform measures in these fields may gradually alienate the population in the areas concerned from the actions of armed resistance groups. By strengthening the *legitimacy* of governmental authority through comprehensive measures of social justice, establishing political equilibrium in a region etc., one at the same time *de-legitimizes* armed resistance movements.
- A military or police-type approach (including, for instance, an all-out assault on terrorist bases, etc.) should only be practiced as a last resort and in a way that is *complementary* to the above-mentioned political, social and economic measures. Armed security measures should always be undertaken in such a manner that civilians are not indiscriminately targeted. Neglecting this basic rule of law and morality may lead to accusations of state terrorism and may destroy the credibility of the underlying security strategy and jeopardize the political legitimacy of the actions concerned.
- If a given counter-terrorism strategy is to remain credible and sustainable in terms of political support (at the national as well as the international level), terrorism must never be fought by resorting to terrorist means. This would unavoidably de-legitimize governmental authority as such. The livelihood of the population in the territory in question must never be put in jeopardy;

scorched-earth tactics are not acceptable under any circumstances whatsoever.

If they truly want to serve their nation's interests (which must include the interests of all population groups of a country), counter-terrorism strategists have to walk the fine line between criminalizing armed resistance groups as "terrorists" on the one hand, and seeking to alleviate, or initially merely to identify, the grievances expressed by a group in such a way that the resistance movement can be perceived as a potential partner in negotiations for a comprehensive settlement, on the other.

The latter, for instance, was the approach initially taken by the Israeli occupying power in Palestine in the course of the Oslo negotiations, which led to the *Oslo Agreement* of 1993. This approach, however, effectively failed because the successor government did not uphold the principles underlying the comprehensive political agenda of the agreement.

This consideration leads us to the formulation of a third maxim of a comprehensive counter-terrorism policy: *You cannot try to negotiate a settlement to a dispute if you treat your (potential) negotiating partner as a common criminal. And vice-versa: The leaders of an armed resistance movement cannot credibly negotiate with a government if they do not accept the latter's legitimacy in at least a rudimentary form.*

To properly address the other's concerns as legitimate and to attribute a basic element of credibility to one another – as reserved or distanced as such an act of "accreditation" may be – are the reciprocal *conditiones sine quibus non* of meaningful negotiations.

From this simple rule of dialogue follows the insight that putting certain groups or movements on a quasi-official "list of terrorist organizations" – and eventually claiming to have established an exhaustive list that allows one to fix the boundaries for political versus military action – may be a counterproductive measure in the long term: *How should one ever meaningfully negotiate with a group labeled as criminal?*

Such an orientation does not exclude, of course, a counter-terrorism strategy according to which clearly terrorist groups – or criminal groups – are called by their name. Undoubtedly, with a real terrorist group – as with a real terrorist state – there

can be no dialogue but only confrontation on the level of state authority – “by all necessary means,” to paraphrase recent Security Council language, including military means.

However, matters are more complicated than they may seem at first glance – even if we believe in the possibility of making a clear conceptual distinction between acts of terrorism and acts of national liberation. In this regard, I would like to recall the dictum of the late Bruno Kreisky, then Federal Chancellor of Austria, who – in justifying his talks with Yasser Arafat, then seen as a terrorist leader by large sectors of international public opinion – said: “*The terrorist of today is the statesman of tomorrow.*”

We must always be aware, or take note, of the possibility of individual persons and/or movements evolving in a direction presently not visible. The potential for a radical reorientation of a movement’s strategy or ideology must never be discounted lest one close all doors to a future political settlement and destroy possible alternatives in a given conflict situation.

In summing up arguments and ideas on terrorism and counter-terrorism, I would like to emphasize again that the essence of a *credible* and at the same time *effective* counter-terrorism policy and strategy lies in comprehensive efforts to establish a just political, economic and social system on the national and international levels, a system that has to be sustainable and consistent with international human rights instruments.

The United Nations Organization has a special responsibility in regard to the coordination of these policies among states and advising and supporting states in their efforts towards balanced social and economic development on the basis of the principles mentioned above. No country can act in isolation; only as part of the international community, as represented by the United Nations, can a state implement the kind of comprehensive social and political agenda required for promoting or bringing about a situation of stability and peaceful interaction among its citizens.

Only when tangible measures for establishing social and political justice, including an equilibrium of forces among ethnic, social, religious and cultural groups, have been undertaken, will specific counter-terrorism measures by military or political-administrative means enjoy the legitimacy they need to be perceived as an adequate response to the challenges to state authority and/or state unity emanating

from resistance groups (whether labeled or classified as terrorist or as liberation movements).

In this context, I would like to recall the concluding remarks of the *Geneva Declaration on Terrorism* of 21 March 1987, which have proven to be more relevant than ever since the tragic events of September 11, 2001:

*“We declare that the key to ending all forms of terrorism is the development of new relations among nations and peoples based on unfailing respect for the right to self-determination of peoples, and on a greater measure of economic, political and social equality on a world scale.”**

Apart from the basic social, political and economic aspects, the *legal aspects* of an effective and legitimate counter-terrorism strategy must not be overlooked.

In particular, the principles of *Additional Protocol II (1977) to the Geneva Conventions*, relating to the protection of victims of non-international armed conflicts, should be upheld. In the specific context of counter-terrorism, Art. 13 (2) is of utmost importance:

“The civilian population as such, as well as individual civilians, shall not be the object of attack. Acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited.”

This norm of Additional Protocol II should be the yardstick by which to measure, in terms of legality, the actions of resistance groups and regular armed forces as well. There should be no “policy of double standards”: Whoever violates the above basic rule should be seen as transgressing the borderline between armed (military) action and terrorism.

No exceptions to this rule should be allowed, and no government should try to define a special, exclusionary category of “liberation movement” when it may suit its interests in a dispute with a neighboring country. The classification of armed actions in regard to the *terrorism-liberation movement dichotomy* must not be left to the rivalries of individual states. If we acquiesce to such strategies, then we may rightly affirm the oft-heard dictum: “One state’s ‘terrorist’ is another state’s ‘freedom fighter.’”

* Quoted from Hans Koechler (ed.), *Terrorism and National Liberation. Proceedings of the International Conference on the Question of Terrorism*. Frankfurt a.M./Bern/New York: Verlag Peter Lang, 1988, p. 313.

In view of the political and legal principles referred to above, a state's counter-terrorism policy has to be comprehensive and multi-faceted and should be coordinated by the national governmental authority on a general basis; such a policy should not be left exclusively to individual branches of government acting without coordination with other agencies.

In the integrated approach we advocate here, special importance is placed on an overall coordination of counter-terrorism strategies according to an essentially *political*, not an exclusively *military*, agenda. Any police-type approach has to be complemented by or based on a long-term social, economic and political program for the region or ethnic or social group concerned.

The state should not be passive and should not merely *react* to identified threats or specific terrorist acts. The best form of counter-terrorism is that which is based on an active attitude vis-à-vis the social and political environment in which terrorist acts occur and terrorist movements may prosper. This is the essence of the "proactive strategy" recommended here.

The application of military tactics and armed force alone is part of a reactive policy, of a *passive* attitude – meaning that the state's actions, when they are mere reactions, are always coming too late.

In clear distinction from this attitude, successful counter-terrorism has to set the *political agenda* in a given dispute and has to demonstrate that the respective government *actively* shapes the social, economic and political conditions in areas – or situations – of conflict and tension. This is the basic feature of a counter-terrorism strategy that is effective and legitimate at the same time – without falling back to a level of *reactive violence* that often becomes unbearable for the civilian population and is unable to produce a lasting settlement.

In ideal terms one may state: *That* method of counter-terrorism is the most adequate in terms of legitimacy of state authority that does not preclude but ultimately paves the way for a peaceful, negotiated settlement.

This, finally, requires a *change of perception* on both sides of the dispute:

- The state authority has to accept the *political* nature of resistance (if and when we are not merely dealing with a criminal group to be identified according to the standards referred to earlier).*
- The change of perception on the part of the government has to be reciprocated by the respective resistance movement, which in turn will have to accept the basic legitimacy of the governmental authority.

I am well aware that these are just ideal guidelines on the level of legal and political philosophy, but I do hope that these general reflections may be of use in the specific context of conflicts from which there may be no way out if treated as mere security problems and therefore seen in strictly military terms.

The unity of a country and the stability and integrity of its political system may finally depend on such an integrated approach.

* The criteria are elaborated in more detail in our above-mentioned paper *The United Nations, the International Rule of Law and Terrorism*.