

# Defining Terrorism

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Brief Analysis

On December 4, 2004, United Nations Secretary General Kofi Annan's High-level Panel on Threats, Challenges, and Change released a report calling for several reforms to help the UN provide increased security for member nations. One of the chief recommendations identified by the sixteen-member panel was the need for an international definition of terrorism. Currently, the UN has different mechanisms under which it designates groups and individuals as terrorists, and the U.S. government also uses a variety of definitions of terrorism in drawing up its lists of terrorists. These varying mechanisms and definitions can impede the coordination between the UN and the United States. With the U.S. Treasury Department and State Department recently adding names to the Specially Designated Global Terrorists (SDGT) and Terrorist Exclusion List (TEL), respectively, and subsequently submitting these names to the UN for consideration to similar type lists, it is useful to review how the different U.S. government agencies and the United Nations designate terrorist groups -- specifically, how they define terrorism.

## The International Community

The lack of a clear international definition of terrorism hinders effective coordination in combating it. In the past, twelve international conventions that criminalized particular activities related to terrorism were as far as international law extended regarding an international consensus on terrorism. Examples include the taking of hostages (1979), terrorist bombings (1997), and terrorist financing (1999).

On October 8, 2004, UN Security Council member nations unanimously passed Security Council resolution 1566 (2004), which was a strong step towards codifying international law concerning acts of terrorism. Security Council resolution 1566 incorporates many of these aspects by defining "terrorism" to include:

"[C]riminal acts, including [those] 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, which constitute offences within the scope of and as defined in the international conventions and protocols relating to terrorism, are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature. . ."

Kofi Annan and his panel further called on the international community to formulate an agreed-upon definition based on these principles, combining them with the existing international conventions to establish the basis for a uniform international definition.

A major obstacle to the establishment of such a definition is the question of "resistance" to occupation. In March 2002, the Organization of the Islamic Conference met for the acknowledged objectives of defining terrorism and detaching it from Islam in the aftermath of September 11. Talks quickly broke down over the issue of whether terrorist acts against civilians are legitimate if carried out under the rubric of "resistance" against "occupation." The recent UN panel, which included Amr Moussa, the Egyptian Chairman of the League of Arab States, clearly states,

"The right to resistance is contested by some. But it is not the central point: the central point is that there is nothing in the fact of occupation that justifies the targeting and killing of civilians." Next month, a conference held by the Arab Interior Ministers Council in Riyadh will attempt to clarify international standards of terrorism.

Labeling terrorists as such has a functional purpose as well. To help discern particular terrorist organizations and activities, Security Council resolution 1566 established another working group that includes all Security Council members like the United Nations 1267 Committee. The UN 1267 Committee administers the execution by states of the sanctions imposed by the Security Council on individuals and entities belonging or related to the Taliban, al-Qaeda, and Osama bin Laden and will consider adding them to a list it maintains for this purpose. This new working group must "consider and submit recommendations to the Council on practical measures to be imposed upon individuals, groups, or entities involved in or associated with terrorist activities." The new committee does not review issues related to the Taliban, al-Qaeda, or Osama bin Laden as this function is still reserved for the 1267 Committee.

### The United States

The United States has three main avenues for designating terrorists and terrorist organizations. Each designation serves a different purpose, and the definitions of terrorism used as the basis for each designation differ.

Executive order 13224 (SDGT): This executive order empowers the Departments of State and Treasury to place both groups and individuals on the Specially Designated Global Terrorist list from Executive Order 13224, which defines terrorism as: "[A]n activity that (1) involves a violent act or an act dangerous to human life, property, or infrastructure; and (2) appears to be intended to intimidate or coerce a civilian population; to influence the policy of a government by intimidation or coercion; or to affect the conduct of a government by mass destruction, assassination, kidnapping, or hostage-taking."

This also includes any activity that provides financial, material, or technological support of acts of terrorism or entities designated in or under the Order.

Terrorist Exclusion List (TEL): Under Section 411 of the USA PATRIOT Act of 2001 (8 U.S.C. § 1182) the Secretary of State, in consultation with or upon the request of the Attorney General, is authorized "to designate terrorist entities for immigration purposes" on the TEL.

The principal stipulations for a group to be designated on the TEL include committing terrorist activity, planning a terrorist activity, and gathering targeting information for a terrorist activity. Under the statute, "terrorist activity" is described by a list of actions. These include hostage taking and the use of a weapon with the intent to endanger people's safety or cause substantial property damage. The criteria also include any threat, attempt, or conspiracy to execute any of these activities. Groups can also be designated for soliciting funds or members for or materially supporting any organization on the TEL list.

Foreign Terrorist Organizations (FTO): Under Section 411 of the Patriot Act, the State Department, in conjunction with the Department of Justice, currently designates terrorist organizations that engage in "terrorism" or "terrorist activity." Under this statute, terrorism is defined as: "...premeditated, politically motivated violence perpetrated against noncombatant targets by subnational groups or clandestine agents."

These differing definitions of terrorism lead to discrepancies among the different lists. Though the State Department uses a similar list of "terrorist activities" to designate both FTOs and TELs as with TELs, there are currently only four names that appear on both the TEL and FTO lists. The Department of Defense, Federal Bureau of Investigation, and Department of Justice also have slightly varying definitions of terrorism.

Next Step for the U.S. Government

As it does with all designees related to the Taliban, al-Qaeda, and Osama bin Laden, the United States will submit the recently designated names to the United Nations 1267 Committee. This would compel the international community to further constrict the financial avenues of these individuals beyond U.S. reach. While the membership of the U.S. and UN lists overlap, the various procedures fail to use the same definition of terrorism and contain different criteria for designating terrorists. A definition of terrorism agreed upon by the United States and the UN would help streamline the international designation process. Clearly distinguishing terrorists allows the United States to mobilize the help of the international community more rapidly in the war on terror. The United States should pursue the issue of defining terrorism through the efforts of the UN panel and next month's Arab Interior Ministers Council conference.

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