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CRIMINAL TERROR IN THE RSA?*

1. INTRODUCTION

While the connection between political terrorism and organised crime, with the former using this link to obtain money and other resources, is in many cases an established fact, the converse has been subjected to less scrutiny. Specifically, this refers to the use of terror tactics by organised crime. In the case of South Africa, the extreme violence accompanying many crimes and the use of a combination of guerrilla and terror tactics in for instance cash-in-transit robberies, raise the question whether violent crime especially, has not resulted in a situation of 'criminal terror'. Evidence that some of the violent crimes are committed in military-style fashion by larger groups armed with automatic weapons and who are thought to, or known to have had previous military training, is one of the factors that point in this direction. Combined with public fears and perceptions of increasing insecurity regarding crime, criminals have apparently also succeeded (intentionally or un-

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intentionally) to instil a climate of fear, which corresponds with one of the main aims of political terrorism.

2. THE CONCEPT OF POLITICAL TERRORISM AND INSURGENCY

Terrorism and/or guerrilla warfare could be used as specific tactics, either as the main method of warfare, or as part of a broader insurgency, or as preliminary methods to an insurgency. Guerrilla tactics could of course also be used in the course of a conventional war.

Terrorism has been defined as "the systematic use of coercive intimidation, usually to service political ends". However, no general agreement on the definition exists. The United Nations (UN) General Assembly adopted a resolution in 1999, stating that "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". During 2003, the UN General Assembly adopted a resolution similarly addressing the issue of motives, formulated as follows: "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 circumstances unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or any other nature that may be invoked to justify them".

In the case of the so-called 'Convention offences' such as those related to for instance hijacking of aircraft, purely criminal motives may also constitute an act of terror even if no clear political motives seem to be present.

The aim of terrorism is primarily viewed as creating and exploiting a climate of fear among a wide target group, and not only the immediate victims, and to achieve maximum publicity for a given cause.

Coercion of the target to accede to the terrorists demands is a basic feature of acts of terror. In this context, it can also serve the purpose of assisting a wider insurgency by helping to create a climate of fear and collapse, and tying down the security forces. Only in a few cases has terrorism as the main weapon been decisive, such as causing British withdrawal from Palestine.

In this regard Greene states that "terror is an effective instrument of social mobilisation only in the initial stages of revolutionary activity",

or where there is some sympathy among the population for the aims of the revolutionaries. Exclusively relying on terror, is a manifestation of the weakness of a movement.

As previously stated, terror may be the main method, or used as part of a wider insurgency. It may be domestic or international (involving the citizens or territory of more than one country) or transnational (decentralised local groups affiliated or inspired by the Islamist ideology espoused by al-Qaeda). Terror may be perpetrated by states or in the case of international terrorism, sponsored by states, or it may be factional terror committed by non-state groups. Most instances of domestic terror, however, have some international dimensions such as appealing for foreign support even though they may only attack domestic targets. In certain instances, targeting may, however, be domestic as well as international.

Although terrorism is primarily associated with the targeting of innocent civilians or civilian property, the United States (US) State Department has interpreted the term 'non-combatant' as including in addition to civilians, "military personnel (whether or not armed or on duty) who are not deployed in a war zone or a war-like setting". The US National Counter-terrorism Center (NCTC) has taken this further, stating that non-combatants included civilians and police, as well as "military assets outside war zones or war-like settings", in addition to including combatants who are in a non-combatant status.

Unlike terrorism, guerrilla warfare is generally seen as being launched against the security forces and related infrastructural targets. It has also been stated that the purpose of, for instance an act of sabotage, is different for a guerrilla movement than what it is for a terrorist movement. Under certain circumstances, guerrillas may also be entitled to prisoner-of-war (POW) status, although in view of the US practice in Iraq and the broadening of the concept of non-combatants as previously referred to, the issue is not always clear. In addition, both terrorism and guerrilla warfare may be combined in any given insurgency, or terror groups may use guerrilla tactics (such as ambushes) but still mainly attack civilian targets and hence overall be classified as terrorists. From the point of view of the insurgents, they do on occasion distinguish between guerrilla warfare and terrorism as separate concepts, and obviously largely view themselves as guerrilla movements and not terrorists.

In most cases in the 20th century, guerrilla warfare has been linked to revolutionary warfare, with the former being a stage in the development of the latter. Urban guerrilla warfare especially, however, has a high potential for terrorism. Operating in an environment with high population density, the death or injuries of civilians are almost inevitable in urban guerrilla warfare.

While some revolutionaries such as Che Guevara and Mao Tse-Tung cautioned against terrorism aimed at the civilian population as this could result in loss of popular support, others such as Carlos Marighella saw it as a weapon that the revolutionary could never relinquish.

Guerrilla warfare is effective in tying down the security forces; as an auxiliary weapon in a wider insurgency; and disrupting the economy and government. In this regard it has been stated that the aim of sabotage in the case of guerrilla warfare is physical damage or disruption, while in the case of terrorism, sabotage is largely aimed at publicity and the creation of fear, hence the concept of 'armed propaganda'. However, some acts of terror are committed without any organisation claiming responsibility, or more than one claiming responsibility so that uncertainty about the perpetrators exists. In some views, this is a form of 'disruptive' terror.

3. CRIMINAL TERROR AND INSURGENCY

The Brazilian revolutionary, Carlos Marighella, in his *Minimanual of the Urban Guerrilla*, stated that "urban guerrillas" differ radically from "outlaws". An outlaw benefits personally from the action and "attacks indiscriminately without distinguishing between the exploited and the exploiters, which is why there are so many ordinary men and women among his victims". However, Marighella does not limit guerrilla attacks to military and police establishments, but refers to revolutionary violence being directed against the "wealthiest of the national and foreign profiteers and the important property owners ... all those who accumulated huge fortunes out of the high cost of living, the wages of hunger, excessive prices and rents". He adds that terrorism, and specifically the use of explosives, is an arm that the revolutionary can never relinquish. Specific actions commended by Marighella, include armed attacks to expropriate funds and capture arms and ammunition on credit establishments, commercial and industrial enterprises, as well as vehicles

carrying money; the seizure of arms, ammunition and vehicles; and kidnapping and sabotage.

While some revolutionaries emphasised the importance of popular support and warned against indiscriminate terror which may alienate support for the revolutionaries, current manifestations of terrorism and insurgencies, including international terrorism, seemed to have jettisoned most constraints. In this regard, Wilkinson states that "(b)y far the most worrying and significant trend in terrorism worldwide is its growing lethality and tendency towards indiscriminate attacks in public places". Suicide bombing incidents, as currently manifesting in for instance Iraq, are prime examples of this indiscriminate nature.

Where classical insurgencies and guerrilla and terror tactics did, however, have an overall political/ideological aim (which could also be linked to for instance religion or ethnic nationalism) some of the more contemporary insurgencies have deviated to the extent that they have been referred to as "criminal insurgencies". These "new" internal wars as manifested in Rwanda, Somalia and Sierra Leone, are characterised by the extreme level of violence against the civilian population; a lack of clear political objectives or an identifiable ideology to justify the activities; and the apparent absence of clear military objectives, order and discipline.

Although terrorist activities, even when they can be classified as political terrorism, already constitute a criminal act and a form of serious organised crime, as stated previously, even political terrorism has increasingly been linked to conventional organised crime syndicates. The latter have, however, also increasingly started using terror as part of their tactics since the 1990s. In India and Italy organised criminals adopted large-scale urban bombings, including the use of car bombs to assassinate judges. The aim was to attempt to prevent further investigation and prosecution of the Mafia. Assault rifles and even heat-seeking rocket launchers were seized by the police in Sicily.

4. THE SOUTH AFRICAN SITUATION

Although politically-motivated terrorism is currently seen as one of the major global threats, the same applies to organised crime. Politically-motivated terrorism or insurgencies obviously pose a serious threat to the state and to society in general (due to its increasingly indiscriminate

nature anybody may become a target). Crime, which in certain cases amounts to criminal terror, generally affects many more people more directly than political terrorism. Serious crime, fraud and corruption, also affect the business environment; investor confidence; and the effective functioning of government. When crime reaches the point where it starts resembling "criminal terror", the climate of fear created among the general population may be similar to that caused by widespread political terror, especially if the latter mainly or often targets civilians. In some views, political and not only criminal motives underlie certain types of crimes at any rate, such as farm attacks in South Africa.

In a climate of criminal terror, even the police become demoralised, and they themselves increasingly become targets, adding to the perception of disdain for the law.

In the current South African situation, much has been made of the decrease in certain categories of crime, including violent crime, as proof of the fact that lower and more "acceptable" levels of crime are achievable. However, a number of other considerations have to be taken into account, including the increasingly excessive levels of violence used in crimes such as armed robberies of residential and business premises; vehicle hijacking; cash-in-transit heists and bank robberies. This tends to overshadow any statistical decreases. Furthermore, public perceptions are of extreme importance, and whether crime statistics show certain decreases or not, perceptions (and realities) of unacceptably high crime rates and extreme violence used in crime, will not easily alter until there is a dramatic reduction in both of the abovementioned. Statistics tend to become less relevant when highly-publicised cases of murder, rape or torture of victims of crime occur, creating the impression of total disdain for human life or dignity.

Finally, the increasing use of weapons and tactics resembling those used by more politically-motivated terror groups, escalates certain categories of crime to the level of "criminal terror".

4.1 Excessive violence

Although violent crime by definition contains some element of violence or threat of violence, an issue of major concern in South Africa is the seemingly senseless violence directed at crime victims, even if they

show no resistance, such as in the case of vehicle hijackings or armed robbery. It can be argued that this is due to preventing the victims from subsequently identifying any apprehended suspects, and the use of drugs and alcohol obviously also play a role in criminal behaviour in these cases. The fact that victims are often tortured, and women raped in many cases of armed robbery of residential premises, is an example of this. The seemingly limitless supply of firearms in criminal hands (including AK-47s) of course aggravates this trend.

Armed attacks on shopping centres putting ordinary shoppers at risk; the use of explosives to blow up automatic teller machines (ATMs); and the *modus operandi* followed in cash-in-transit robberies (larger groups of up to ten or more robbers, using guerrilla-style ambushes and attacks, often armed with automatic rifles) approximate the use of "conventional" terror tactics, now used by criminals. In fact, there are indications that in some cases, the attackers had received prior military training, either in South Africa or in neighbouring countries. Random attacks by criminals on the police are another example of "classic" terror tactics.

4.2 Public perceptions and experiences

The London-based Control Risks Group placed security risk in South Africa on the same level as countries such as Russia and El Salvador, at end 2006. According to this report, it will pose a major threat to business in 2007, and public-private initiatives to combat crime, will only have a limited impact.

Also in 2006, Leonard McCarthy, head of the Directorate Special Operations (Scorpions) in South Africa, stated that as far as corruption is concerned, things were bad in South Africa, and directly affects national security. In a similar vein, the head of the National Prosecuting Authority, Vusi Pikoli, recently stated that a "criminal minority" is holding South Africans hostage to crime. He added that no one is safe anymore.

The above official views seem to directly contradict both police chief, Selebi, and some of President Mbeki's views on crime, which initially emphasised that it was only a perception that crime has increased or is out of control, and that statistics show a general decline in violent crime.

Statistical decreases in the annual incidents are obviously important, although many still doubt the validity of statistics, whether calculated on the incidence of crime ratios per 100 000 of the population, or on the total number of crimes committed on an annual basis in specific categories.

However, the main question is what level of crime is 'acceptable'. In the South African situation, it is clear that only a dramatic reduction in crime will have an effect on public perceptions. Obviously, perceptions and reality do not necessarily coincide, but to ignore perceptions, is to court the danger of a public backlash, the exact situation currently existing in South Africa. Statistics alone, also do not clearly explain the types and levels of violence associated with specific crimes such as vehicle hijacking, cash-in-transit heists and armed robbery of residential premises.

The levels of, and types of violence accompanying many crimes, as previously noted, are important factors shaping perceptions, regardless of what statistics may indicate. During 2006, a total number of 56 incidents involving the use of explosives to blow up ATMs occurred, and by beginning March 2007, a further 68 incidents had already been recorded. Similarly, the incidence of armed robbery at shopping centres which directly threatens the public at large, increased in provinces such as KwaZulu-Natal and the Western Cape during 2006, with only a slight decline in Gauteng (from 143 in 2005 to 130 in 2006).

Media reports of victims being raped, killed, severely assaulted or tortured during armed robberies of residential premises, contribute to the perception (and reality) that high levels of violence accompany many categories of crime.

The widespread occurrence of crime, is another factor, which regardless of statistics, plays an important role in shaping public perceptions. During 2006, 84 per cent of private business owners indicated that they or their family members, or their employees, had been victims of crime. The National Civil Safety and Security Action (Nacissa) recently estimated that the probability exists that more than 90 per cent of people would fall victim to crime in South Africa. The view and experience that nobody and no places are really safe anyway, are also important factors underlying perceptions about crime in South Africa. If this is linked to mistrust in the police regarding issues such as corruption and inefficiency, perceptions (as well as realities) regarding crime

are further influenced by a feeling of hopelessness. Furthermore, a recent survey indicated that crime was increasingly becoming a consideration when South Africa was chosen as a tourist destination.

5. CONCLUSION

It seems as if the 'statistics *versus* perceptions' debate over crime will continue, with government mainly using statistics as indicators, and the general public basing their views on perceptions, actual experiences and media reports. In a situation such as this, it would be patently unwise of government to ignore perceptions, also because the latter do reflect a good measure of reality. Perceptions (and reality) also shape the decisions of domestic and foreign investors, as well as those of tourists and skilled people leaving the country.

Although this article is not primarily about the combating of crime, a number of conclusions can be drawn.

- Some of the methods used by criminals increasingly seem to point to a culture of "criminal terror", requiring as much effort in combating as is the case with political terrorism.
- Perceptions are just as important as statistics, and perceptions regarding crime in South Africa, are at any rate also based on the reality that high levels of seemingly senseless violence accompany many crimes, and that nowhere and nobody is safe any longer.
- Although the criminal justice system is only part of the effort in combating crime, a more effective management system, with efficient policing (and especially more visible policing on a daily basis) will greatly assist in helping to change perceptions about crime in South Africa. An increase in police numbers as recently announced, is a positive development, but is only one dimension of policing. The perception also exists that in many cases, obvious offences such as illegal hawking are allowed to continue, creating a climate for further transgressions. Better service delivery is an absolute priority if the police wish to improve their image. Over-reliance on the concept of 'partnerships' with communities, businesses or private security firms in the combating of crime,

could lead to an abdication of primary police responsibility.

- It is, however, also unrealistic to rely on the criminal justice system to become involved in the socio-economic causes of crime. The seemingly uncontrolled spread of informal settlements and vagrants and large numbers of street children form part of this problem. The increasing flow of illegal migrants to South Africa, due to a combination of deteriorating conditions in especially Zimbabwe, and ineffective borderline control as well as corruption and fraud involving South African identity documents, are other factors that increase the opportunities for crime.
- The culture of materialism and entitlement that seems to underlie crimes of greed, cannot be turned around by "moral regeneration" campaigns alone, if no discipline is restored, respect for the police established, and life and property also viewed as being worthy of respect.
- The use of firearms in the commission of crimes is of serious concern. It is of little use to expect public support for new firearms legislation when reports of criminals wielding automatic rifles have become part of the daily news. Reports of firearms surrendered to the police by members of the public, and subsequently used by criminal syndicates, according to the Democratic Alliance, obviously adds to public mistrust. The same applies to arms stolen from the police or Defence Force, or reported as "missing".
- To over-emphasise poverty as the main cause of crime, as government mostly does, does nothing to explain the excessive violence accompanying many crimes, nor is there any factual evidence that most crimes are caused by poverty. This would imply, if true, that most people in the world should be criminals. Obviously, reduction of poverty is a laudable goal in itself, but over-emphasising this, becomes a useful election platform, and often creates expectations which cannot be fulfilled. If carried too far, it could even create the impression that the poor are entitled to commit certain crimes, even if their situation is one of relative or perceived poverty. In this regard, a recent UN report on comparative crime levels in the European Union, stated that: "(t)he five highest-crime countries in the EU include both rich and poor

nations, and that they found no association between levels of crime and poverty or even 'economic inequality'. But if poverty seems largely unrelated to crime, the abuse of alcohol is not".

- The increase in certain categories of crime; the growth of organised crime; corruption; and excessive use of violence in many crimes, is not a uniquely South African phenomenon, but affects many countries, including all Southern African countries. However, each situation is to some extent unique regarding public tolerance of crime levels and some specific causes of crime. Therefore, while important lessons in the combating of crime can be learnt from successes in other countries, solutions also have to be based on the realities of the South African situation. Certain circumstances should nonetheless not be used to "explain away" the causes of unacceptable crime levels. However, as far as direct comparisons are relevant and can be made, South Africa has been placed at the top of the list, or close to the top, when surveys of the incidence of murder or rape per 100 000 of the population are done. This is in itself an indication of how serious the situation is, even when certain categories of crime are statistically shown to have reduced.

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