

A CRITIQUE OF STATE TERRORISM

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ABSTRACT

This essay is a critical philosophical analysis of the concept of “state terrorism” based upon an epistemological discussion. It is an attempt to re-formulate the question of terrorism by making the case that “state terrorism” is the mother phenomenon and root of all forms of terrorism.

My ambition is to contribute in our understanding of terrorism by revealing that, in the Greek language which is the language of concepts and philosophy, the term terrorism literally means “state terrorism,” and it belongs to the same family of words as democracy, aristocracy, autocracy and so on and so forth, since they share their second synthetic and suffix –cracy. This recognition may have the power to open new ways of viewing the term and phenomenon of terrorism, if not re-define the concept by describing it according to the term’s original meaning. Under this logic, terrorism would refer to a form of government and a political system; a hypothesis that my essay introduces into the philosophical dialogues on terrorism, since it has never before been discussed within these terms.

Keywords: State terrorism, critical legal studies, philosophy, law, human rights.

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I. PROLEGOMENA

My purpose is to examine the hypothesis that terrorism means state terrorism by definition. My ambition is to look through, yet beyond, the empirical, positive, factual assertions that struggle to depict reality, and into the normative¹ of what should and ought to be by attempting to contribute to the quest of defining terrorism.

From academia to politics, it has been impossible, to date, to describe successfully what terrorism is, and consequently, to reach agreement on a single definition. This paper is reformulating the question of terrorism, from a critical terrorism studies standpoint, in an attempt to redirect the philosophical dialogues on the phenomenon. It is common, in philosophy, to reach a wrong answer, simply because we were asking the wrong question in the first place. Scholars, such as Noam Chomsky, have repeatedly stressed the need for further scholarly engagement with this field of study, and argued for the responsibility of the philosophers, to reflect on state terrorism and terrorism, in order to clarify and define the concepts adequately, and this is where my essay intends to pay a contribution.

Arguably, there is a need to employ different disciplines, in order to explain sufficiently my thesis. The hypothesis I am examining aspires to serve as a critical contribution in our understanding of terrorism, and my discussion contains findings reached through a well premeditated methodological process which travels from philosophy to law, from a critical terrorism studies, to critical legal studies, while approaching on occasions at the unconcealedness² of the “aletheia”³ in language.

This new understanding of the significance of the term terrorism has been generated by the simple intellectual exercise of looking back in its origin and birth as a concept, and as a term representing the concept through a language construction. It is a re-formulated question on terrorism, which is based on a historical truth uncovered, in order to highlight the basic features of this phenomenon. Allow me to clarify, that it was not in my intentions to work on terrorism as it is being portrayed in modern academia, since my original intention was to research on state terrorism, but my findings have dictated the topic and purpose of this document, and that is to highlight that terrorism’s essence or mother phenomenon is better and more accurately represented by the term state terrorism.

Disregarding the criticisms advocating against the existence of state terrorism as a phenomenon, crime, or concept, this essay aspires to deliver strong reasons and justifications of the opposite, by stressing that state terrorism is indeed an existing phenomenon, not only of our modern era, but existing from the beginning of political thought and the formation of the organized State, dating as far back as democracy, and according to the theory developed and examined in my paper, state terrorism is not only an existing concept, but is what terrorism’s original meaning is all about.

Evidently, following the recognition of state terrorism as a valid concept, then its criminalization should come as a natural consequence, a fact that increases my scholarly motivation. Its conceptual treatment is an intellectual exercise that offers additional thought-

¹ MICHAEL PROUDFOOT & A.R. LACEY, *THE ROUTLEDGE DICTIONARY OF PHILOSOPHY*, ROUTLEDGE DICTIONARIES 277 (Routledge, 2009) (Epistemology can be seen as normative, in so far as it is concerned with justification of our beliefs, and with judging the rightness or wrongness of our cognitive states).

² MARTIN HEIDEGGER, *BEING AND TIME* 79 (J. Stambaugh, trans., Harper Torchbooks 1972).

³ ‘Aletheia’ refers to literal meaning of the term. A-letheia comprised by prefix a—that expresses negation or absence, and—letheia, which literally means: ‘forget’, ‘conceal.’ So, the Greek word for “truth,” aletheia (ἀλήθεια), meaning “un-forgetfulness” or “un-concealment.”

provoking philosophical questions, especially when one considers the fact that the Greeks, when they spoke of terrorism, referred to a form of government and a political system.

My hypothesis is based on an examination of the original meaning of the term, by travelling back in the history of its conceptual development and terminological creation within the Greek language, the language of concepts and philosophy, and proceeds by employing the vehicles of a Socratic methodology and in cases a modern Derridian logic. By doing so, I was able to examine the differences of the term in today's language in comparison to the past usage of the word, and to determine the ways and possible reasons for the departure from its original meaning.

Before I continue, I feel the need to stress the importance of knowing Greek when studying Philosophy. The majority of the Greek terms are transliterated into the Latin alphabet, but the importance of the capacity to comprehend the philosophical terminology, which in its majority, originates in the Greek language, should not be overlooked or diminished, as well as the obligation to cultivate the ability to identify a term wherever it may appear in a script. In my view, a reader of philosophy not knowing Greek would be like a mathematician not knowing the value of numbers.

Thus, in this article, I talk about truth. Truth, that as a term in the Greek language means to uncover, to un-forget or remember again. The literal meaning of the word ἀ-λήθεια (aletheia = truth) is the state of not being hidden, or forgotten. Based on that reading of truth as 'unconcealedness', I have advanced into a challenge to uncover the hidden or forgotten truth of the term terrorism and elucidate, in a form of a reminder, what philosophers and scholars have led to forget. As Heidegger claims, "[t]o say that an assertion 'is true' signifies that it uncovers the entity as it is in itself. Such an assertion asserts, points out, 'lets' the entity 'be seen' (ἀπόφανσις) in its uncoveredness."⁴ It is astonishing to realize, that nobody so far has talked about or discovered that the original meaning of the term, and subsequently in many cases, the original form of terrorism, or mother phenomenon has always had as a starting point, the State. Therefore, in the majority of the cases involved in that terrain, to talk about terrorism is to talk about state terrorism. This conclusion is reached by exercising the simplest reading of the term in its original form, driven by the realization that we are acting as political animals and exercising political thought, under the agreed understanding that the entirety of our political systems, from raw material to constructed forms, are to find its origin in Greece, just like Democracy is, and just as her sister term Terrorism or Terrorcracy.⁵ Later in this paper a detailed discussion of the above hypothesis is to be found, based on the fact that in the Greek language—from which originate terms describing political systems such as democracy, aristocracy, autocracy and so forth—the term terrorism, belongs to the same family of words as democracy and shares the second suffix synthetic *-kratos*, which defines the meaning of the term in a greater depth, and automatically categorizes it. To recover the meaning of terrorism, in that sense, would mean to acknowledge the fact that political terms constructed by the suffix *-kratos*, refer by definition to forms of government and political systems, contrary to the modern treatment of the term as solely a criminal act.

According to the Greeks, to talk about *kratos* is to talk about defective forms of government. See for instance, the Aristotelian treatment of the term throughout his 'Politics', and the detailed discussion of the dangers in different constitutional arrangements.

⁴ MARTIN HEIDEGGER, BEING AND TIME 261 (John Macquarrie & Edward Robinson trans., Basil Blackwell Publisher Ltd. 1962).

⁵ Terrorism and terrorcracy, or tromocracy, if transliterated more accurately from Greek into Latin.

The truth of the matter is, that the suffix *kratos* is principally referring to an abuse of power or tyranny, and is negatively charged as a political suffix, yet, the usage of *kratos* and *arche* in describing political constitutions poses vital issues. Still, there is an inherent negative value in *kratos*, since it means power by force, while *–arche*, which means beginning, origin, and sovereignty, do not share this negation. Illustrative is the description by Cornelios Castoriadis, who wrote that *kratos* is referring to “raw violence.”⁶

Nonetheless, it seems inevitable, if not necessary, to keep in the picture the traditionally accepted form of terrorism, where an individual is the perpetrator and the State is the victim of the terroristic act. Allow me to clarify that this is one form terrorism can take—a form that it is not in my intentions to use too much ink talking about since there is already a plethora of literature dealing with it—in contrast to the phenomenon of state terrorism, which has been neglected by scholars. However, in the case of the individual terrorist, one could also claim in relation to the logic underlying this paper, that this form of terrorism in the majority of cases comes second, which means that there is always some sort of unjustified State violence and terror that causes or triggers the individual terrorist to commit the *actus reus* that constitutes terrorism, for instance in the case of freedom fighters. We are not really talking about terrorism, when for example, an insane person commits atrocities against part of the population or any other criminal acts. It should be made clear at this early stage of my essay that criminal law has the tools and capacity to deal with this kind of criminal behaviour and there is no need to involve terrorism in that process. It is not terrorism that is on the table, in cases where the infliction of fear and terror on a population or the instrumentalization of fear for the achievement of further political goals within the structural landscape of a State is not part of the intention or *mens rea*. Arguably, this could serve as a criterion for identifying the cases where terrorism is at issue, which is a crucial operation in any legal system. A simple working definition of state terrorism, for the sake of my argument, is to say that state terrorism is terrorism committed by state-actors.

I find it important to draw the attention of the reader to the fact that terrorism and state terrorism are more political than legal terms. This is why I find it important to elaborate and deal with this phenomena by interpreting them through the political theory’s reasoning paths and through philosophical analysis, while anticipating that state terrorism can be proven to be more of a political system, rather than just a criminal act, or better put, a criminal political system.

⁶ CORNELIOS CASTORIADIS, ANCIENT GREEK DEMOCRACY AND ITS SIGNIFICANCE FOR US TODAY, 53 (1999) (Author’s translation).

II. IS TERRORISM, BY DEFINITION, STATE TERRORISM?

In the introduction of *Philosophy in a time of terror*,⁷ Borradori claims that philosophy has a crucial contribution to make to the understanding of terrorism. In a way she is inviting philosophers into a dialogue by emphasizing the necessity to assume the responsibility of philosophy in assessing the importance of a present event.

There are many scholars that have accepted a broad definition according to which terrorism is simply political or ideologically motivated violence that is directed against civilians or non-combatants. In fact, this broad definition has become sufficiently widespread that Jeff McMahan refers to it as the “orthodox definition.”⁸ There are different trends of dealing with the theory of terrorism, which have even been categorized into orthodox, radical, or moderate terrorism studies.⁹

The phenomenon of terrorism has fuelled endless debates and caused numerous controversial definitions without accomplishing a comprehensive description. The question *what is terrorism* has not met a satisfactory answer. The struggle still exists with describing and identifying such actions as terrorism, in order to initiate the process of prosecuting atrocious crimes. “Whether terrorism should be treated primarily as an international crime or should be viewed mainly as a political problem [which may have international criminal elements], has been debated by the international legal community for years.”¹⁰ We have been witnessing for decades the attempts of the international law-making organs to create a complete and legal bounding document to cover the phenomenon of international terrorism in its entirety, but the issue of state terrorism is repeatedly avoided. However, there is the undeniable fact of state-supported terrorism, and accordingly the relevant international laws covering the forbidden acts, like the United Nations Resolution 1373; but there are still a number of unresolved issues, and numerous shadowed areas that shout for clarification. Yet, this is the closest, “western” international law has come to state terrorism, because there are other pieces of international law, like in the African Union, or the Arab Convention on Terrorism, which are explicitly using the term state terrorism, but unfortunately these laws do not enjoy the universal applicability and power that a United Nations Resolution does.

By proceeding, allow me to employ the term democracy to strengthen the basis of certain ideas. The relevance and importance of the links between the two terms will be later on explained in greater detail. Let me clarify though, that I chose the term democracy as a tool to prove my point, since the majority of the readers have some basic understanding of the term and its function. It is not in my intention to analyse the term democracy if this analysis is not connected to my discourse on state terrorism.

At this point, I will try to attain a justified conceptualization and a philosophical

⁷ See GIOVANNA BORRADORI, *PHILOSOPHY IN A TIME OF TERROR: DIALOGUES WITH JURGEN HABERMAS AND JACQUES DERRIDA* (2004).

⁸ “[C]ertain beliefs . . . have hardened into unquestioned orthodoxies.” JEFF MCMAHAN, *KILLING IN WAR* vii (2009). See also, AVERY PLAW, *TARGETING TERRORISTS: A LICENSE TO KILL?* (2008) (for further explanation of the ‘orthodox definition.’).

⁹ See JASON FRANKS, *RETHINKING THE ROOTS OF TERRORISM: ORTHODOX TERRORISM THEORY AND BEYOND* (2006).

¹⁰ ROSALYN HIGGINS, *THE GENERAL INTERNATIONAL LAW OF TERRORISM, TERRORISM AND INTERNATIONAL LAW* 21 (Rosalyne Higgins and Maurice Flory, eds. 1997).

hypothesis driven by language, by looking into the relationship of Democracy and State terrorism, or Terrorcracy. The most relevant link will be celebrated by recognizing that democracy and terrorism, in the Greek language, belong to the same family of words, and share the suffix *kratos*, while another connection is the possibility of a democratic State using terror as a tool, means, and form of government.

It is also in the purposes underlining this paper, the parallel consideration of the hypothesis, that state terrorism can take the form of a political system, and a form of government or an executive tool, where for instance the governmental power is preserved through the fuelling of terror within the population, examples can be found from the Arab world to America, and from Asia to the former USSR.

A noteworthy idea comes from Stohl and Lopez¹¹ who argue that terrorism carried out by a State can take an institutionalized form, which has been developed as a product of changes that appeared after World War II. In this line of reasoning, state terrorism takes the form of foreign policy, shaped by the presence and use of weapons of mass destruction. The normalization of such violent behaviour led to an increased international toleration and silent legitimation as it was long employed by States, a legalization of violence and acts, which had earlier been labelled terroristic and criminal.

Advancing in my analysis, it would be useful to consider the genealogical style of deconstruction, which recalls the history of a concept, since it is being used as another method of analysis and examination of the concept of state terrorism. As Derrida has said: “[s]o we have to go back to the Greek origin, not in order to cultivate the origin or in order to protect the etymology, the etymon, the philological purity of the origin, but in order first of all to understand where it comes from...”¹² Yet, the kind of deconstruction I am engaging with is closer to the Platonic intellectual tradition and his teacher's maieutic analysis.

Under this logic, the word democracy derives from the Greek word, ‘*democratia*’ (*δημοκρατία* in Greek), formed from the roots *demos* (gr. *δῆμος*), ‘people’, ‘the mob, the many’ and ‘*kratos*’ (gr. *κράτος*) ‘rule’ the holder of power.

My hypothesis is based on the fact that, in the Greek language, where the term democracy originates from, the word democracy and the word terrorism have the same root and belong to the same family of words, since both terms share their second synthetic ‘*kratos*’, which can be translated as power, holder of power or State. Keep in mind that the terms describing political systems in Greece, were mainly consisted by –*kratos* or –*arche*. *Kratos* being by far the worst and normally was referring to abusive forms of political power. Yet, democracy’s popularity led her to evolve into a more inclusive system, and has covered up over the centuries this negatively charged value.

A linguistic analysis of the terms in question follows below. In that sense, from Greek, ‘*Δημοκρατία - Τρομοκρατία*’ transliterates in English as ‘**Democratia – Tromocratia**’. So, ‘*democratia*’ is in the English language the term democracy, and ‘*tromocratia*’ is the modern word terrorism, with *tromo* translating as terror, and the substitution of the suffix –*kratos* by the suffix –*ism*.

Tromocratia (terrorism), then etymologically means the ‘*tromo-cratia*’ or ‘*terror-cracy*’ in which the holder of power is the ‘*kratos*’ [the State], and keeps this power under control through the tool of terror. Since we are dealing with a polysynthetic term, which is comprised of two

¹¹ MICHAEL STOHL & GEORGE A. LOPEZ, TERRIBLE BEYOND ENDURANCE? : THE FOREIGN POLICY OF STATE TERRORISM, (1988).

¹² PLATO, ARISTOTLE, DERRIDA, <http://hydra.humanities.uci.edu/derrida/vill2.html> (last visited Dec. 12, 2011).

synthetics from which the first signifies the “who,” in our case the terror, and the second synthetic and suffix that indicates the “what.” Under this logic, if we use an analogy with Democracy, we could say that, in terrorcracy the people are no more the possessors of power, but terror is. The difference in the two terms can be found in the first part of the word, the “demos” (people), in the word demo-cratia, and the “tromo” (terror) in the term tromo-cratia. The second part is the same (and is defined as the power and control, and the holder of power, or State), then the first part of the terms constitutes who is the holder, indicates who has the power the control and in the case of democracy is the people, ‘demos’, in the case of terrorism, ‘tromocratia’ → ‘tromo-cracy’ or →terrorcracy, the holder of power is the terror. According to this reading, terrorism is dictating its lexical meaning,¹³ and it seems to me that this new interpretation could serve as a vehicle for our better understanding of the phenomenon of terrorism and state terrorism in particular.

The suffix –cracy¹⁴ in the term tromocracy, which refers to forms of government, has not been transferred in the international literature as tromocracy, in contrast with democracy, autocracy, aristocracy and so on and so forth, which have been adopted unchanged. It seems plausible to ask at this point, whether a natural transliteration from Greek into Latin, with a more accurate representation of the term, by preserving the originally attributed suffix –kratos, since its importance and the extra value that it attributes to the term cannot be emphasized enough, entailed the danger of referring automatically into a political system and consequently the word to describe and mean by definition state terrorism. It is undeniably a good and useful question in reflecting on the matter and the reasons that may have justified such a departure of the original term. In my view, it is more likely that this negligence occurred due to the scholarly ignorance about the importance of preserving the integrality of the terms referring to political systems in the process of translating philosophical Greek scripts and theories. The act of translation has more power than we attribute to it. It can alter the meaning of a script and can deform it, or even change the function of terms.

¹³ In semantics, the message conveyed by words, sentences, and symbols in a context. *See: Language*, ENCYCLOPEDIA BRITANNICA www.britannica.com/EBchecked/topic/329791/language/27173/Lexical-meaning (last visited Dec. 21, 2011).

¹⁴ World English Dictionary: suffix, -cracy, indicates a type of government or rule: *e.g.* plutocracy, theocracy. – *cracy*, DICTIONARY.COM <http://dictionary.reference.com/browse/-cracy> (last visited Dec. 3, 2011).

In the table below, I cite and compare the terms democracy and terrorism, in order to visualize the journey of language and to make the point of my thesis clearer.

Explanatory notes	Term A	Term B
In English	Democracy	Terrorism
In Greek	Δημοκρατία	Τρομοκρατία
Greek into Latin alphabet, transliteration.	Democratia or democracy	Tromocratia [tromo=terror] or terrorcratia/ terrorcracy
The same suffix of a term indicates its meaning.	Demo-cracy	Terror-cracy
The modern term of terrorism has adopted the suffix –ism, which refers in political systems, and indicates a belief or principle.	Demo-cracy	Terror-ism
Translations: 1 st synthetics: Demos [Δῆμος] = people, and tromo [τρόμος] = terror. 2 nd synthetics, Suffix: -kratos [κράτος] or -cracy = holder of power, State. Suffix: -ism [ισμός] = indicates belief or principle.		

It is interesting to examine the fact that terrorism has been transferred in English automatically having the ending –ism.¹⁵

The suffix –ism, is usually shared by terms describing political theories, such as Commun-ism, Liberal-ism, Capital-ism, Anarch-ism. An interesting question would be to ask, why the word has been transliterated into Latin, having the suffix -ism, and not stay more accurate by keeping the suffix –cracy, like all the other terms of the same family had, as democracy or aristocracy? Yet, the suffix -ism, which also originates in Greek (see: –ισμός), refers to a system of ideas and is destined to form abstract nouns of action. Through this loan of the suffix –ism, the term automatically lost the negative reference that –kratos bears and brings to a term, as in the original Greek term describing terrorism. If for instance there were a faithful adoption of the word from Greek into Latin, as is the case with all the other terms of this family of words, then the suffix -kratos would be dictating a different route into our understanding of the concept through its terminological formation. A research into literature may hold a possible answer to these issues, but this would fall outside the purpose and prescribed length of the present paper, however, it could shape the theme of a follow-up essay.

I find important at this point to note, that Greek is a “polysynthetic language [...] a polysynthetic or syntactic construction of language. It is that in which the greatest number of ideas are comprised in the least number of words.”¹⁶

This is what law is trying to do, in some way. It is like the legal codification of action,

¹⁵ MYWORD.INFO, *The Meaning of “-ism,”* (May 17, 2011), http://myword.info/definition.php?id=ism_1-a (“A word ending that indicates action, manner, condition, beliefs or prejudice”).

¹⁶ THOMAS C. PATTERSON, *A SOCIAL HISTORY OF ANTHROPOLOGY IN THE UNITED STATES xxx–xxxii* (Duponceau 1819) (2006).

conduct, and ideas into legal terminology. Where law ends and language begins is, in my view, impossible to determine, while the significance of philosophy of language in jurisprudence cannot be stressed enough.

I find essential to mention “deconstruction” at this point. Miller has described deconstruction this way: “[d]econstruction is not a dismantling of the structure of a text, but a demonstration that it has already dismantled itself. Its apparently solid ground is no rock, but thin air.”¹⁷

That is exactly what I am doing in the present paper, deconstructing in the most brutal but natural way. I am exercising deconstruction in its most pure and original form, by breaking down the construction of language, of language representing a form, a structure, into its raw material and previous beings, beings as unique and sole words, that were before they were merged to create a new entity into this world, a new word and term, and consequently to form the medium and means of describing a new concept. I am exercising deconstruction in this way, or I am according to Miller, “demonstrating that the text has already dismantled itself.”

Deconstruction is an approach, introduced by the French philosopher Jacques Derrida. He also refers to the power of language, in the term of “Logocentrism” a term devised by Ludwig Klages in the 1920s, directing the focus on language, since is a synthetic term comprised by logos (Λόγος) which mean words in Greek, and centrist (Κεντρικός) which indicate where the central interest and value is.

Logocentrism is wisely claimed by Jacques Derrida to be manifested in the works of Plato, Jean-Jacques Rousseau, Ferdinand de Saussure, Claude Lévi-Strauss, and many other philosophers of the Western tradition.

Professor Costas Douzinas¹⁸ takes the Logocentrism deconstructive term¹⁹ into law’s Logonomocentrism using a critical legal studies point of view. The metaphor of Logonomocentrism makes “the claim of the unity of self and others in absolute reason of the law.” This claim is not as valid from a critical legal studies standpoint because of the failure of the law and the numerous miscarriages of justice that exist because of this logocentric point of view. Under the light that Logonomocentrism as a theory provides, the “logos” (words) is again the protagonist, the written words, terms are what are important, and in relation to law (Greek for law, “Nomo”), so, the necessity to have meaningful words that reflect the whole spectrum of any given phenomenon in need of a legal regulation is celebrated within this term. The central power is invested in “logos,” in language, providing another justification for the utility of this essay’s theme. Hence, the law is essentially connected to language and constructed within the terms of a logocentric tradition, whether critical legal scholars like it or not.²⁰

Nevertheless, it is claimed in the majority of terrorism literature that the first documented reference on terrorism comes from the Reigns of Terror in 1793, when the Jacobins cited this precedent by imposing a Reign of Terror during the French Revolution. Although, even in that case, a government imposed the terror, in a form of state terrorism, still, in modern times terrorism refers to terrorism perpetrated by non-state actors.

¹⁷ J. Hillis Miller, *Stevens’ Rock and Criticism as Cure II*, 30 THE GA. L. REV. no. 2, 330, 341 (1976).

¹⁸ See COSTAS DOUZINAS, R. WARRINGTON & S. MCVEIGH, *POSTMODERN JURISPRUDENCE: THE LAW OF TEXTS IN THE TEXTS OF THE LAW* (1991).

¹⁹ Translation by author: Logo= speech, Nomo=law, centrist=central. Logo-nomo-centrist.

²⁰ Obviously, it is not in my intention to advocate in favor of this traditional legal function since I am conscious of the dysfunctions justice-wise that a blind terminological following can cause. However, this traditional conception is a major part of my hypothesis and methodology, the investigation of the function of language, and the utility of logonomocentrism in particular.

My reading of terrorism is based on the fact that the term was in existence centuries before, in ancient Greece, enjoying its existence next to political construction such as democracy. Aristotle, for example, criticized the use of terror by tyrants against their subjects.

Terrorism is as old as the existence of the organized State, or as the ancient Greeks have named –kratos, which would translate as power. For example, in the Greek mythology originating more than 3000 years ago, the Kratos is depicted as a person with sisters the Violence and the Victory. This myth demonstrates the strong connection of the State with violence and consequently fear, and its well-established understanding of such a connection by its representation in mythology.²¹

In ancient Athens for instance, a well-known terroristic attack²² would be the cut-off the Hermon,²³ dating back before the 5th century BC.

The ancient Greeks were explicitly saying, “control the people through their fear of the divine and the rage of the gods.” A belief and statement that can be found in ancient drama and tragedies amongst other philosophical writings, demonstrating the instrumentalization of fear for the purpose of controlling a population and achieving further political goals. If that last sentence does not ring a bell, allow me to draw your attention to the orthodox terrorism theory and its definitional attempt, which is almost the same.

It seems plausible to say, that, in order to understand the term and its function we need to look at its original meaning, contrary to the existing beliefs and terminological definitions that are based on findings from the 17th century onwards and the Reign of Terror.

One way to start this new understanding of the term could be to view the term from an etymon point of view. Etymologically the term terror-crazy, would refer to a form of government by terror, or state terrorism. In this line of reasoning, terrorism is a political system and form of government; the terror holds the power (crazy). There is an undeniable necessity to engage in further dialectic examination and analysis of the above assumptions, and this essay aspires to fuel the initiation of further dialogues on this theory.

Since the terms democracy and terror-crazy are constructed from the same roots, or the same ‘raw material,’ it logically follows that they were both originally constructed to describe political systems or forms of government. It is time to put an end to this confusion of concepts and terms by setting the record straight and illuminating the original meaning and purpose of politically fuelled language constructions.

Terrorism, in the Greek language means “terror-state,” just as democracy means “peoples-state.” If we accept this rightful re-definition of the concept, then the chain of events may generate further constitutional implications. Further, this re-definition triggers the necessity to re-consider the unconstitutional criminalization of ‘terror-cratic’ practices, since it could not be possible to punish a terrorist for her beliefs and practices any more than it is possible to jail a communist for her beliefs, as long as harm to others is not involved. This practice would be against her political freedom of thought and belief. An idea that is clearly contrasting the current practices prescribed by the counter-terrorism legislation around the globe, and which initiates a number of legal paradoxes.

²¹ Mythology, which had as its main function the ethical education of the people.

²² As in the case of the philosopher Critias, who in 415 BC, has been accused and imprisoned together with Alcibiades, for the mutilation of the statues of Hermes. See <http://www.iep.utm.edu/critias/> (Accessed 21 December 2011).

²³ In free translation, from the original ‘Αποκοπής των Ερμῶν,’ refers to destruction of the statues of Hermes the ancient Greek god serving as the messenger of gods to humans.

It is also equally important to recognize that criminal law has the capacity and tools to deal with all the different *actus reus* that a terrorist may employ to achieve her ends. This is the main objection of scholars and practitioners of international law since they argue that we do not really need a new crime—referring to state terrorism—given that whatever the criminal act, there is an equivalent law to render it punishable.

However, in my view, trying to fit this extremely long list of *actus reus* and the problematic relevant *mens rea* under the umbrella of the term terrorism is rather an impossible task, and it seems to be misleading since it creates more legal problems than it solves.

Hence, there is a legal detail that makes the difference, and that is the weight of a crime classified as terroristic is automatically significantly increased. Its immorality and severity is reflected even in the practical terms of sentencing and punishment. Similarly important is the fact that the international legislation has been working to create a better-organized justice system to deal with these crimes more efficiently. Also, by making a case in a court of law, as soon as the term terrorism can stand in front of a judge, then we have the initiation of an automatic procedure with a number of legal doors opening simultaneously for the better, faster, and more effective functioning of the legal process and system, for instance, the immediate consideration of the highest possible sentence, among other legal tools and procedures available only to terrorism cases. Not to mention the negative side of that coin, through this over-production of legal tools, which led to grievous violations of human rights, secret prisons, illegal secret extraditions, and unconstitutional custodial procedures—to the point of absurdly justifying torture—that have mainly damaged any justice system that have adopted them. Yet, it is still an indicator of the legal “back” doors that a terrorist case may open inside a criminal legal system; an illustrative example is the case of Guantanamo Bay.

It seems to me that if we successfully manage to recover the meaning of terrorism, then the well-accepted statement that “historically, terrorism has been the tactic of the weak against the strong,” can be proven to be deceptive.

Criminal law making is a “risky business” that is in constant need of re-evaluation and reassessment. The mere existence of the codification of a phenomenon, practice, or behaviour into the language of criminal law is not a strong enough reason to uphold its actual legality as a rule or its constitutionality. If a law were proven to be unconstitutional, then the only step forward would be to change the law or declare it void since it is not a law at all, and the people are not bound to obey it. Acts not in accordance with the rules laid down in a constitution²⁴ are “*ultra vires*”²⁵ and therefore void. If one distils the rules from the above statements and applies them in relation to counter-terrorism legislation, one could arguably find a lot of examples of “illegal rules.”

There have been a plethora of drafts and pieces of international and national legislation regulating terrorism, yet minimal and inadequate expansion on state terrorism has occurred, except in the case of state-supported terrorism, or State terror. This information can be better evaluated by the mobilization of techniques that Comparative Law has to offer.

In this line of reasoning, a bright exception is the Arab Convention on Terrorism, which States in Article 3, “[c]ontracting States undertake not to organize, finance or *commit terrorist acts* or to be accessories thereto in any manner whatsoever.”²⁶ In this law, the lawmaker clearly

²⁴ There are similar procedures that seek the same end, both in the common and civil law countries.

²⁵ “Beyond the powers.” Latin meaning: for without authority in the Anglo-Saxon legal tradition.

²⁶ Arab Convention for the Suppression of Terrorism, League of Arab States, pt. II, ch. I, sec. I, art. III, Apr. 22, 1998 available at: <http://www.unhcr.org/refworld/docid/3de5e4984.html> (emphasis added).

forbids the State from assuming the role of the perpetrator of the crime of terrorism. The legitimate user of violence, as the State is being called, must “not commit terrorist acts.” The crime of state terrorism exists in national and regional legislation, but does not enjoy universal applicability and or any actual international legal consensus.

However, its existence in a legally binding document, as mentioned in the Convention, as well as in the Organization of African Unity’s Convention,²⁷ it could be plausible to say that it proves its actual existence as a crime.

Noam Chomsky and Edward S. Herman viewed the thinkers in relation to state terrorism as ground-breaking and argued that: “[t]he distinction between State and non-state terror is morally relativist, and distracts from or justifies state terrorism perpetrated by favoured States, typically those of wealthy and developed nations.”²⁸ Chomsky has described low-intensity warfare as state terrorism, and writes: “The U.S. is officially committed to what is called *low-intensity warfare* . . . If you read the definition of low-intensity conflict in army manuals and compare it with official definitions of terrorism in army manuals, or the U.S. Code, you find they’re almost the same.”²⁹

It is not the only case that the United States has been accused and found to be acting in accordance with the purposes of state terrorism. There have been many accusations³⁰ against the country, such as Latin America and the Nicaraguan case, for genocide in Guatemala and State terror.

Thought-provoking ideas on state terrorism can be found in the moral analysis of the philosopher Igor Primoratz,³¹ through which he proceeds in the formulation of four reasons that show state terrorism as morally worse than non-state terrorism.

First, due to the amount and variety of resources, state terrorism results in greater number of victims than non-state terrorism. Second, since state terrorism is linked to secrecy, the State terrorist would usually act criminally and then hypocritically preach morality and ethics. Third, since States are signatory parties of international conventions against terrorism, their acts would be in breach of their international commitments. Lastly, Primoratz argues that is impossible that a State has no other option for a different course of action apart from state terrorism. The philosopher has pointed out some very important arguments to demonstrate the severity of the immorality of the phenomenon, and hence, he indirectly adds value to the validity and importance of the term. Clearly, there is a need for further scholarly engagement with its conceptual analysis.

In the wake of the September 11, 2001 terrorist attacks in the United States, the United Nations Security Council unanimously adopted resolution 1373, which, among its provisions, obliges all States to criminalize assistance for terrorist activities, deny financial support and safe

²⁷ OAU Convention on the Prevention and Combating of Terrorism, Jun. 14, 1999 available at <http://www.unhcr.org/refworld/publisher/OAU,,,3f4b1f714,0.html>

²⁸ See NOAM CHOMSKY, *TERRORIZING THE NEIGHBORHOOD: AMERICAN FOREIGN POLICY IN THE POST-COLD WAR ERA* (1991); JEFFREY A. SLUKA, *DEATH SQUAD: THE ANTHROPOLOGY OF STATE TERROR*, 8 (2000); See also NOAM CHOMSKY AND EDWARD S. HERMAN, *THE POLITICAL ECONOMY OF HUMAN RIGHTS: THE WASHINGTON CONNECTION AND THIRD WORLD FASCISM* (1979).

²⁹ David Barsamian, *The United States is a Leading Terrorist State An Interview with Noam Chomsky*, MONTHLY REVIEW (2001).

³⁰ See GEORGE L. ALEXANDER, *WESTERN STATE TERRORISM*, (1991).

³¹ IGOR PRIMORATZ, *State terrorism and Counter-Terrorism*, in IGOR PRIMORATZ, *TERRORISM: THE PHILOSOPHICAL ISSUES* 117 (2004). See also, *ETHICS OF TERRORISM & COUNTER-TERRORISM* 74–77 (Georg Meggle, ed., 2005).

haven to terrorists, and share information about groups planning terrorist attacks. Resolution 1373 obliges all States to criminalize assistance for terrorist activities, but there are so many States that provide assistance to terrorist organizations, including some of the greatest powers of the so called first world countries, western State's activities which would easily fall under the prohibited acts of terrorism under the European's Arrest Warrant list of terrorist acts,³² the Academic Definition of Terrorism, or the International Convention for the Suppression of the Financing of Terrorism.³³

CONCLUSION

The optic corner that this essay is viewing the phenomenon of terrorism is through terrorism's other hypostasis, the view of terrorism committed by the State, state terrorism. By reversing the roles of the parties in a terrorist assault, where the State ceases to be the victim, and is a participatory party, but in the role of the perpetrator.

Yet, it seems as if these phenomena have developed through time and practice an immune system against their legal analysis and criminal coding. Legal experts, lawmakers and academics have failed repeatedly to efficiently deal with the criminal analysis of the act itself.

Undoubtedly, terrorism and state terrorism are not easy subjects to work on, but at the same time the challenges surrounding their blurred and unclarified areas impose a duty upon academics to address the necessary questions in order to contribute in the scholarly labour process, in the production of knowledge, and eventually assist into the birth of a complete convention on international terrorism, leading the way into disrupting the silent consent to the international legal justice system's current practice of law, which eclectically criminalizes the act, depending upon the perpetrator.

In other words, when the same terroristic act is committed by a State, there should be the same confrontation and punishment for the crime by the appropriate court as if it had been committed by a private individual, a group of individuals, or any other non-state actor.

There has been a lot of ink used about terrorism, but in contrast, the bibliography on state terrorism is limited, insufficient, and suspiciously neglected as a field of study. There is the urgent need for further research in order to outline the main problems of these multidimensional and evolving polymorphic phenomena. It is important to note that terrorism as a phenomenon of this globalized and highly technological era, it is a continuously evolving concept, a fact that holds a contributing role in the constantly procrastinating legal environment surrounding the concepts of terrorism and state terrorism, and their not so different routes and roots. In terrorism, fear is the tool used for achieving the realization of the desired goals, and at the same time, fear is the re-action of the terroristic action. While it should be highlighted that terrorism cannot exist without the pre-given existence of the State, and apparently we cannot really talk about terrorism outside the context of the State, they are bound to exist together in an interlinked and dependable relationship.

I am referring to terrorism and state terrorism as being in cases one and the same phenomenon, while being termed differently allowing the circumstances. Allow me at this point

³² European Arrest Warrant, EUROPA, http://europa.eu/legislation_summaries/justice_freedom_security/judicial_cooperation_in_criminal_matters/l33167_en.htm (last visited Nov. 29, 2012).

³³ See International Convention for the Suppression of the Financing of Terrorism, G.A. Res. 54/109, U.N. Doc. A/RES/54/108 (Dec. 9, 1999).

to clarify that while they are two different phenomena, it is the thesis of this paper to prove that in the original terminological appointment, the Greeks, in aiming to describe the concept through the polysynthetic Greek language, constructed the term terrorism³⁴ in order to describe firstly the terrorism employed by a State actor, and not by a criminal individual as in the modern established understanding. Governmental power of any sort and terrorism were meant to share an unbreakable bond, a bond that has been broken by the deformation and unsuccessful transliteration of the term from Greek into Latin and consequently into the majority of the western languages. Yet, state terrorism is the worst, most dangerous, and greatly immoral form of terrorism.

Apart from the significance of history and the past in my research, I should note the importance of the future, which is also a motivating power inherently underlying my scholarly engagement. The future is connected to the prevention of human rights violations, a prevention that can be an important instrument and could have great effect on the future. As Nowak better puts it: “[p]revention that also means to address the root causes of systematic human rights violations.”³⁵ In this sense it is important and necessary to address the practice of state terrorism as the roots and cause of systematic human rights violations.

The Preamble of the Universal Declaration of Human Rights³⁶ states: “freedom from fear.” While the drafters of this pioneering document explicitly condemn fear, they say nothing on state terrorism, although it would be rational to expect a condemnation of the phenomenon in a document that was drafted in the aftermath of the worst form of state terrorism the world has ever faced, under the Nazi’s atrocious violence. I have not met a satisfying answer, to justify the neglected by legal experts, state terrorism. Politics are being ruled by different ethics than law, therefore the marriage of law and politics under the need to give birth to international law has produced more suspicious paradoxes than it actually solved.

However, irrespectively of means and perpetrators, we are facing at an interference with the individual’s enjoyment of fundamental rights necessary for the fulfilment of the person’s natural desire and need for freedom, and all the conditions that may contribute to the self-fulfilment, autonomy, and the development of her capabilities,³⁷ in order to render possible the individual’s unique blossoming into a society. From a human rights perspective, facing all this terror-phobia triggered by the counter-terrorism measures, and the total security obsession of the Western governments, it is apparent that we are witnessing an unnecessary diminishment of the value of human rights.

Humanity has made big steps towards the realization of a universal system of rights that every human being should be entitled, and minimum standards and procedures for their protection. Certain human rights, such as the right not to be tortured, are inderogable, meaning that under no circumstances are to be waived, and this ought to be treated as sacred in any justice system. Contrary to that, in the name of National Security, and through the mobilization of total control’s theories, as in the “War on Terror,”³⁸ Democracies are pushed from protection to suppression of rights agenda, while hypocritically assume the tool of fear to achieve their

³⁴ Terrorism in Greek is the word *tromocratia*, or *terrorcracy*.

³⁵ Manfred Nowak, *INTRODUCTION TO THE HUMAN RIGHTS REGIME (THE RAOUL WALLENBERG INSTITUTE FOR HUMAN RIGHTS LIBRARY NO. 14)* 341 (2003).

³⁶ See *Universal Declaration of Human Rights*, G.A. Res. 217 (III) (A), U.N. Doc. A/RES/217(III) (Dec. 10, 1948).

³⁷ MARTHA NUSSBAUM, *WOMEN AND HUMAN DEVELOPMENT: THE CAPABILITIES APPROACH*, (2000).

³⁸ Coined by the Bush administration, primarily to refer to operations against Al-Qaida, while its meaning was expanded to cover anything remotely connected to terrorism.

political ends, as is the case with many counter-terrorism practices.

Still, a law with universal applicability, explicitly forbidding state terrorism, does not exist. The postponing international legal setting cannot serve as an excuse for the neglected issue of criminalizing state terrorism or for the diplomatic denial to bring it on the table, when discussing terrorism legislation.

The necessity for scholarly engagement with the phenomenon has been advocated by some of the greatest minds of our times, and the screaming necessity for legal recognition of terrorism committed by state actors can be silenced no more. Under this logic, one should be able to claim that the establishment of a proven act of terrorism committed by a State actor ought to formulate state terrorism, and the possibility to bring a case in a court, in order for justice to be restored, should always be available.

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