

AN ECONOMIC ANALYSIS OF TERRORISM AND OF COUNTER TERRORISM POLICIES AND LEGISLATION: THE PROBLEMATIC CASES OF THE EU AND THE US

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ABSTRACT

In light of the important implications of terrorism, this contribution aims to provide a better understanding of the features of terrorism and to determine if/how far these elements have been taken into account in counterterrorism strategies until now. Based on a mix of a theoretical analysis built here and empirical results of previous research, this paper seeks to explain how the various agents behave and interact, the specific characteristics of terror as a 'product' and those of other related goods. Moreover, drawing upon insights from the (mainly) empirical work of various scholars, a macroeconomic analysis in search of the causes and determining factors of terrorism is conducted as well. These investigations help to find some weak links that ought to be targeted in the fight against terrorism, in order to enhance the efficiency of counterterrorism policies and laws in the future. Then, the discussion follows with the current policies and legal framework concerning counterterrorism, with a special focus on the EU and on the US. Keeping in mind the precedent examination, it is identified what is missing, ineffective or counterproductive in these strategies.

Key words: *Terrorism, Counterterrorism, Law and Economics, EU, US*

JEL Classification: *F52, H56, K14*

1. Introduction

Data from the two largest terrorism datasets, The Global Terrorism Database and International Terrorism: Attributes of Terrorist Events, show that during the last quarter-century the number of terrorist incidents globally has been generally lower compared to the previous 25 years (Sandler, 2015). Even though, the general perception in the public seems to be one of increasing terror. This may be due to at least two related phenomena. First, starting from the beginning of the 1990s, when the main stage saw the switch from left-wing organizations to religious fundamentalist groups, the terrorist attacks cause, in average, more casualties per incident (Gaibulloev & Sandler, 2014). Second, due to the rise of a multimedia society – see, *inter alia*, the expansion of Internet, mobile communication and social networks – the echo of a single event is now stronger. This amplification (involuntarily) helps the terrorist organizations to achieve their goals, as it will be argued later on.

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The study of terrorism deserves a special attention not only for the important negative (material or non-pecuniary) effects of the terrorist activities *per se*, but also due to the indirect microeconomic and macroeconomic impact arising in the longer term from the distortion of the incentives and of the activity of economic agents, caused by this atmosphere of terror. In light of the important implications – from economic, psychological, sociological, and political viewpoints – this contribution aims to provide a better understanding of the features of terrorism and if/how far these elements are taken into account now, in order to reach more efficient counterterrorism laws and policies in the future.

Based on a mix of a theoretical analysis built here and empirical results of previous research, this study seeks to explain how the various agents behave, how they interact and which are the specific characteristics of terror as a 'product' and those of other related goods (in Section 2). Moreover, drawing upon insights from the mainly empirical work of various scholars, a macroeconomic analysis in search of the causes and determining factors of terrorism is conducted as well. These investigations could help to find weak points that may be targeted in the fight against terrorism. Then, the discussion follows with the actual legal framework and policies related to counterterrorism, with a special focus on the European Union and on the United States² (Section 3). Keeping in mind the precedent examination, the ultimate goal is to identify what is missing, ineffective or counterproductive in these strategies (Section 4).

2. Understanding terrorism: Root causes and determining factors

2.1. Definition and classification

Terrorism is a very complex and dynamic socio-political phenomenon and it is therefore of no surprise that there is no general agreement on an exhaustive definition of it. For example, it is worth mentioning that the consideration of several organizations as terrorist ones has been revisited, by other parties and/or in other times, and their leaders have even been awarded the Nobel Peace Prize.³ The definition adopted here is the one formulated by Enders and Sandler, because of its success in highlighting some key distinguishing features of terrorism – despite the various forms it may take in time and space – and, probably due to that, because of its success among scholars. The authors define terrorism as "*the premeditated use or threat of use of extra-normal violence or brutality by sub-national groups to obtain a political, religious, or ideological objective through intimidation of a huge audience, usually not directly involved with the policymaking that the terrorists seek to influence*" (Enders & Sandler, 2002, p. 145).

In this definition several aspects of terrorism are evidenced, which are worth to stress in order to make clear as much as possible differences to other related phenomena: premeditation, violence, sub-national level of the activity, a supported cause and a large audience. First, it will be assumed that all the actors involved are acting rationally⁴, while seeking with premeditation to achieve some prefixed goals. Second, organizations and terrorists use illegal violence and brutality for this, instead of taking other nonviolent legal paths. In addition, terrorism is linked to organizations and their supporters rather than to a whole country, which makes it different from a

² The US are probably the major target of terrorism, globally. Transnational attacks against US interests count for 35-40% of the total number (Sandler, 2015).

³ See, *inter alia*, the case of the South African *Umkhonto we Sizwe* and its cofounder, Nelson Mandela.

⁴ This may even hold, in a broad sense, in the case of suicide terrorists, if due sources of utility are taken into account (Pape, 2005). We will come back to this argument later on, in Subsection 2.2.

war.⁵ Furthermore, the activity is not seen as a goal *per se* or a means for profit by these actors, as it is the case for organized crime, but in function of the ideological, political or religious cause. Last, terrorism needs to affect a large audience to achieve its tactical and strategic objectives of influencing policymaking in favour of the cause. Hence, the directly targeted parties are just the instruments.

Based on the nationality of the perpetrators, that of the victims and the venue where attacks take place, terrorism is classified in two categories: domestic – the dominant one, both in terms of incidents per year and total casualties caused annually – and transnational terrorism (Sandler, 2015). The first category refers to terrorist acts in which perpetrators and victims – and usually, the targeted audience – come from the venue country, while the second one includes terrorist attacks in which perpetrators and/or victims hail from a country different from the venue one. Besides the general agreement on this classification, several scholars tend to argue about 'lone wolf' terrorism – the terrorist is not affiliated to any organization – and suicidal terrorism as having enough distinguishing features to deserve being considered separately, as two specific types of terrorism (Pape, 2005; Borum, Fein, & Vossekuil, 2012).⁶ Moreover, the ideological orientation of terrorism may be found in the relevant literature as an important criterion for another classification (Sandler, 2015). Based on this, one can distinguish among these major types: left wing, right wing, nationalist/separatist, and religious fundamentalist terrorism.

2.2. Theoretical analysis

The organization and its supporters: The terrorist organization rationally makes its decisions seeking to achieve as the ultimate long-term goals of its activity, *inter alia*, the maximization of political and economic power and influence for its movement: the organization and its supporters (Frey & Luechinger, 2004). In accordance with that, in a shorter timeframe it will tactically aim at politico-economic destabilization and damage, as well as at publicity for their cause (Schelling, 1991). As in the work of Frey and Luechinger (2003), the assumption is that the organizations have to choose a basket with two 'products': terrorist activity on one side and ordinary nonviolent political processes – such as political parties and elections or lobbying – on the other.⁷ The final choice of one single organization is determined by its preferences and by the budget constraint that it has to face.

Keeping in mind the framework set above, the 'utility' function to maximize would look like the typical one used in the neoclassical economic theory for the buyer choosing between two substitute goods. The organization may have an intrinsic predilection for the terrorist path, for the ordinary nonviolent solutions, or may be rather indifferent between the two ways.⁸ The budget constraint faced by the organization would look quite standard as well. The activity of the organization may be financed in two different ways: (monetary) resources coming from groups of supporters of the cause, and self-generated funds deriving from secondary activities of the

⁵ Moreover, we will abstain here from the cases of state supported terrorism, both from the one targeting foreigners and the one used against own citizens.

⁶ Consequently, these two categories will generally remain out of the scope of this work.

⁷ In reality, the organization may indeed engage to various extents both in the ordinary and in the terrorist processes. See, for example, the case of the national separatist movement in the Basque Country. An alternative approach would be to theorize a simple binary choice between the two.

⁸ This rationale seems to be consistent with the fact that frequently some groups (e.g., IRA) split up when moderates start to seek a compromise with the government (Miller, 2013).

organization – which may be *per se* legal or illegal⁹. Hence, with a given amount of money to be spent on seeking to maximize political and economic power, the optimal choice of terrorist activity – strictly from the organization viewpoint – will be greatly determined by the relative price of terror in terms of ordinary political processes.

Theoretically, the choice may be affected by several background (macro) factors. Among these, two major important groups can be evidenced in the relevant literature: economic and political factors, which may be interdependent in several dimensions (Schneider, Brück, & Meierrieks, 2010a). The first category includes 'absolute' economic conditions (e.g., income per capita), 'relative' economic conditions (e.g., income inequality), and 'international' economic factors (e.g., economic integration) that may as well affect the previous two. The second large category is comprised of 'national' and 'international' factors as well. This category includes, *inter alia*, openness of the political system (democratic, authoritarian, or partially democratic), political stability, quality of the institutions (e.g., of the judicial system) and political integration.

In general, worse economic or political conditions, in absolute or relative terms, would make nonviolent solutions either very costly or impossible for the organization and the supporters.¹⁰ Following this rationale, marginalized minorities (politically or economically) should have a relatively higher propensity to engage in or support terrorism. Therefore, relatively higher terrorist activity should be generated in countries/times with higher inequalities and a less open political system.

The terrorist: Apart from physical capital, the terrorist organizations rely heavily on the use of labour for the terrorist acts. As suggested in previous research (Miller, 2013), the rational would-be terrorist makes the decision whether or not to supply labour to the terrorist organization, aiming to maximize her/his expected net benefit from such activity. (S)he will compare the expected costs and benefits associated with the terrorist activity.

The benefits may be pecuniary, if the individual or her/his family receives financial payments or payments in kind from the organization, and non-pecuniary. The latter derive from actively supporting the cause – if the individual shares the same ideology with the one the terrorist activity is labelled with – or from simply being part of the organization as a social club, in the form of status, reputation, power and other psychological benefits, as well as friendship and solidarity links (Abrahms, 2008; Shimizu, 2011). On the other hand, the choice of engaging in illegal activities of the organization implies explicit expected costs for the individual. These are 'legal' costs – level of the legal sanction that the individual or her/his family would face multiplied by the probability of enforcement of that sanction (Becker, 1968) – and 'social' costs, related to possible social punishment, such as public shaming from community leaders. Apart from that, there are implicit costs as well, calculated as the lost benefits that would eventually derive from engaging in alternative legal activities.

Considering this framework, the decision may be influenced not only by exogenous elements¹¹, but also by various personal characteristics that directly or indirectly affect the

⁹ See, for example, the involvement of the Taliban and al-Qaeda in drug trafficking, extortion, ransom and human trafficking (Peters, 2009).

¹⁰ The analysis can be done both at a national and at a transnational level.

¹¹ See the 'background' factors in the part dedicated to the organization. For example, joining the organization in a country with an authoritarian regime may bring relatively higher benefits from supporting the 'just' cause against this regime, but the legal costs may also be relatively higher due to higher sanctions or higher probability of enforcement (e.g., more control and less concern for privacy).

benefits or the cost of the terrorist activity for the individual. By tautology, an individual with radical ideological or religious beliefs would gain (higher) non-pecuniary benefits by the terrorist activity and would be therefore more prone to join the organization and engage in such acts. A similar rationale would suggest a stronger tendency of individuals coming from marginalized groups/minorities to join as well. Apart from possible benefits related to the matching ideology (fighting against the 'oppressors'), the implicit costs should be relatively lower due to the difficulties to successfully access the legal job markets.

Due to the discrimination women face in many societies, probably the same argument would be valid for them, even though it is unclear if gender would be *per se* an influencing factor. In addition, assuming again that the would-be terrorist's costs and benefits are affected by the well-being of the family¹², the costs for unmarried individuals should be relatively lower, both in legal and in social terms. Individuals earning a higher income face higher implicit costs and should therefore be less prone to become members of the terrorist organization. Relatively higher levels of unemployment, which reduce the opportunity cost, are usually faced by the young part of the population, on the other hand. This should make these individuals relatively easier to attract for the organization.

More difficult seems to become the task with individuals having higher levels of education and/or professional expertise, *ceteris paribus*. Even though the organization would definitely prefer these persons in order to increase the probability of success for the terrorist acts (Bueno de Mesquita, 2005) – and would probably offer them (higher) monetary benefits - the implicit costs of abandoning the legal markets would be relatively higher. Moreover, these individuals may be relatively less vulnerable to indoctrination by extremist ideologies. Hence, they should have relatively lower levels of non-pecuniary benefits linked to the cause. Azam (2005) supports the dynastic family hypothesis for a different point of view: suicide terrorists may altruistically decide to sacrifice themselves for the probability of future generations to enjoy some public good (that will arise from succeeding with the cause) and the degree of altruism should be higher for above the average education (and wealth).

The state(s): Another stakeholder is represented by the state(s). While seeking to guarantee protection for citizens, the state will intervene as a regulator, trying to restrict the terrorist activity to an 'optimal' (efficient) level, up to the point where the marginal benefit of more counterterrorism would start to be lower than the marginal cost of having that. This optimality is controversial if compared to aiming at effectiveness, but necessary, even due to the trade-offs between various counterterrorism measures on one side and human rights and civil liberties on the other.

Counterterrorism activity of the state may be divided in two groups: (reactive) defensive measures and (proactive) offensive ones (Schneider, Brück, & Meierrieks, 2010b; Sandler, 2015). Defensive measures are usually adopted as a reaction to new techniques used in some successful terrorist attack, while proactive measures imply a direct attack of the state against the terrorist organization, its support groups or their interests. Defensive measures seek to make future attacks more difficult and more costly for the terrorist organizations, generally by protecting possible targets. Differently from that, proactive measures aim at pre-emption by attacking the resources and capabilities of the terrorist organizations and their supporters.

¹²Empirical results (Benmelech, Berrebi, & Klor, 2010) suggest that this hold true for, at least, an important part of such individuals.

The former measures – e.g., harsher legal sanctions for terrorism and related activities, more thorough controls in entry ports, physical barriers around embassies – are typically beneficial only for the local population and would result in negative externalities in the form of spillover effects for other venues/countries, since terrorist organizations would rationally divert their attacks toward the more vulnerable targets (Enders & Sandler, 2006). This would give rise to a continuous race among the different states and therefore it would result in the overprovision of such security measures (Arce & Sandler, 2005). Hence, the competition not to be the weakest link would lead countries to overspend in defensive measures compared to a possible efficient collaboration against the common enemy.¹³

The opposite would happen with proactive measures – e.g., confiscation of financial resources of the organizations and their support groups, decapitation of the organizations by killing their leaders (using drones, for example), pre-emptive or retaliatory military attacks – which are similar to public goods (Sandler & Siqueira, 2006). The benefits flow to the other jurisdictions as well, in terms of greater security, while the costs are borne only by the country implementing the policy (hence, positive externalities are present). Therefore, instead of collaborating with each other – which would result in the efficient equilibrium – countries would freeride on each-other's efforts and security spending. Hence, the Prisoner's Dilemma would lead once again to the worst equilibrium, globally. A country could even choose to accommodate the terrorist activity of an organization for a deal of no attacks in that country – a dominating strategy significantly coined "*paid riding*" by Lee (1988).

Moving away from a static analysis to the more realistic dynamic scenario, results do not seem to get better. It is true that the game will be repeated, but it will most probably be a finitely repeated one, as governments do see endpoints to their political terms (Enders & Sandler, 1995).¹⁴ Hence, the application of backward induction reveals that the equilibrium would be again one of no cooperation and free riding.

The 'product': Terrorism has the characteristics of a 'public bad': it is somehow a non-rivalrous and non-excludable product. Applied specifically to the case, one terrorist organization can eventually benefit from the (damage and destabilization caused by the) terrorist activity of another group, without bearing the burden of any cost for that (Frey, 1987). Standard economic theory suggests that the problem of freeriding leads to the underproduction of a public good, which would be in this case – from the society's perspective – a desirable result.

Moreover, as specified even in the definition of terrorism, this product needs an audience. It actually has a "symbiotic relationship" with media, which are also looking for sensational news to attract larger audiences (Frey & Luechinger, 2008). They will transmit and amplify the echo of any terrorist event, since 'bad news is good news' (Rohner & Frey, 2007). Hence, they will (involuntary) help the organizations to achieve their goals. According to Melnick and Eldor (2010, p. 972): "*The value of the media coverage of terrorist attacks [measured by the impact on stock market prices], which terrorist organizations receive free of charge, is of the same order of magnitude as the advertising budgets of some of the world's largest corporations*".

¹³ A similar logic would be valid as regards private defensive measures adopted by households or businesses (e.g., investment in security services), while it should not be the case at a country level in relation to measures against domestic terrorism (no externalities).

¹⁴ Actually, the argument holds true for democratically ruled countries.

2.3. Empirical evidence

Following the previous theoretical analysis, it is obligatory to continue with the reality check. As regards the typical features of a terrorist (if any), there are only a few studies due to the obvious difficulty of acquiring necessary data for that. Furthermore, data relate to a specific territory. This makes it rather difficult and risky to extrapolate useful results. Two studies show that it is more likely that terrorists are young individuals (Krueger & Maleckova, 2003; Krueger A. B., 2008), confirming the theoretical intuition in the previous section, respectively for the Israeli-Arab terrorism and for home-grown Islamic terrorism in the US. Even though women face unfavourable socio-economic conditions in many of the countries that generate terrorism, this is still predominantly a 'men's activity' (Jacques & Taylor, 2009). Anyway, the study evidences an increasing female participation. Regarding marital status, the results of Berrebi (2007) show a relatively higher likelihood of having to deal with an unmarried individual. This confirms again – at least, in relation to Palestinian terrorists – what predicted by the theoretical analysis.

Surprisingly, the contributions of Krueger and Maleckova (2003), Berrebi (2007) and Krueger (2008) find out that the individuals joining the terrorist organizations have relatively high levels of education, as compared to the average levels in the local population. This would suggest that the altruism effect argued by Azam (2005) with his dynastic family hypothesis might outdo the relatively high opportunity cost of abandoning legal markets. If this holds true, the results of Krueger and Maleckova (2003) and Berrebi (2007) regarding the income and living standards of the terrorists seem to be less unexpected. They find that it is more likely for members of the organizations to have relatively high levels of income, as compared to the average levels in the local population. Nonetheless, this may as well be due to a positive correlation between education and income.

Moving to an aggregate level, the empirical results generally confirm the theoretical analysis on the macro determinants of domestic terrorism. This type of terrorism is less likely to be present in countries with higher levels of income per capita (Krieger & Meierrieks, 2010) or in those experiencing higher economic growth (Caruso & Schneider, 2011). As regards the relative economic conditions, the presence of economically discriminated groups in the society makes domestic terrorism more likely (Piazza, 2011), while the implementation of stronger social welfare policies – which can reduce poverty and economic discrimination/inequality – has the opposite effect (Burgoon, 2006; Krieger & Meierrieks, 2010). Freytag et al. (2011) show that economic integration of the country – in terms of trade openness – has also a positive effect in reducing the likelihood of this type of terrorism. In relation to the political factors, domestic terrorism is positively related to political instability (Abadie, 2006; Bandyopadhyay & Younas, 2011) and negatively related to the quality of institutions in the country (Bandyopadhyay & Younas, 2011). Finally, the relation to political openness is non-linear, with partially democratic regimes suffering from the highest levels of such terrorist activity (Abadie, 2006; Bandyopadhyay & Younas, 2011). These mix regimes lack the advantages of both democratic regimes – in which ordinary processes are relatively cheaper – and authoritarian regimes – in which legal costs for terrorists are relatively higher.

The picture is more unclear regarding macro determinants of the origin of transnational terrorism (perpetrators' nationality). Some studies show that this type of terrorism is less likely to generate from countries with higher levels of income per capita (Lai, 2007; Blomberg & Hess, 2008). These results are opposed by other contributions that find no significant relationship between the origin of such terrorism and absolute economic conditions in the country (Krueger & Maleckova, 2003; Krueger & Laitin, 2008). Better economic integration and more social welfare

(Burgoon, 2006) may reduce the likelihood of a country being source of transnational terrorism. On the other hand, this likelihood is increased by political instability and state failure (Piazza, 2008a). Again, the relation to political openness is non-linear, with partially democratic regimes generating the highest levels of this type of terrorist activity (Abadie, 2006). Finally, Azam and Thelen (2008) find a positive effect of foreign aid: a reduction of the terrorist activity generated in the receiving country due to a probable improvement of the other economic and political indicators.

Contradictory results can be found also among the empirical evidence in relation to the target country of transnational terrorism (victims' nationality). Some contributions show that the likelihood of being a target increases with the level of income per capita and the rate of economic growth (Krueger & Laitin, 2008; Blomberg & Hess, 2008), while others find no significant relationship (Li, 2005; Piazza, 2006). A country is more likely to be targeted by transnational terrorism if it is characterised by stronger political instability (Piazza, 2008a; 2008b; Campos & Gassebner, 2013) or poor quality of institutions (Piazza, 2006; Krueger & Laitin, 2008). Finally, there are no clear results yet on how political openness of one country affects the likelihood of being attacked by transnational terrorism (Li, 2005; Krueger & Laitin, 2008).

In sum, one can observe some counterintuitive results and some that are contradictory as regards the importance and the direction of the impact of the same factor. This may be due to the fact that most of the work deals with the investigation of the effect of only one or a few factors and also does not inquire into possible reverse causalities – see the relation between terrorism and political instability – or into the interrelations between the influencing factors. Apart from the use of different and problematic methodologies¹⁵, data availability and reliability is also an important issue, considering that we are dealing with a very complex and dynamic (in time and space) phenomenon¹⁶. Moreover, this is an undercover activity that cannot be measured in its entirety, and data are gathered only on successful and some failed attacks, which may be only the tip of the iceberg. Finally, related to the last point, the datasets used are built on media reports and considering the problematic or absent media freedom in authoritarian regimes, there should be reporting biases in the direction of underreporting for those countries (Drakos & Gofas, 2006). Therefore, being confronted by this state of the art, the claims of empirical work in this field should be taken with caution.

3. Current counterterrorism legislation and security policies

Despite the presence of terrorism for a long time now, huge efforts have been notably made in the field of counterterrorism since the skyjackings of 9/11, both in terms of new legislation and new policies (Sandler, 2011). A thorough analysis of the entire legislation dealing in different degrees with terrorism – from United Nations' Resolutions and international agreements to national substantive Criminal Law and legal acts focused specifically on this crime - goes well beyond the limitations of this work. Hence, acknowledging the great variety, the analysis will concentrate mainly on the similar patterns that can be observed in the new legislation and strategies targeting terrorism that emerged in the aftermath of 9/11. The focus is especially on the approach of maybe the most experienced countries in the area, both in the European Union – like the United Kingdom, due to the long history of dealing with some infamous organizations like IRA, but also

¹⁵ Gassebner and Luechinger (2011) are very critical of the robustness of findings in precedent studies.

¹⁶ Recall the Nobel Peace Prize argument.

to an active participation in the 'war' against international terrorism following 2001 – and in the rest of the World – like the US, promoter of the 'war on terror'.

3.1. The situation in the European Union

In the European Union, terrorism is dealt with at the Member States level. EU institutions have introduced The European Union Counter-Terrorism Strategy (Council of the European Union, 2005) and the Revised Strategy on Terrorist Financing (Council of the European Union, 2008) as a framework and guidelines to the Member States, in order to improve their mechanisms and coordination. The Counter-Terrorism Coordinator monitors the implementation of the action plan and periodically suggests actions to be taken and changes to be made in that regard. Despite the variety of forms¹⁷, some similarities can be noticed in the legislation and policies implemented by the various Member States. Moving beyond the borders of harsher substantive Criminal Law, counterterrorism laws and measures have expanded toward stronger defence measures for potential targets, new harsher practices of investigation and detention, new practices of dealing with suspected foreign citizens and immigrants, changes in financial regulations and the use of military force.

First, harsher punishment is imposed for members of terrorist organizations independently from the committed crimes, both in terms of higher fines and longer (maximum) imprisonment sentences. Even before that, agencies are now collecting more data – from tracking and photographing via automatic number plate recognition systems to storing DNA in specific databases – either by using public resources or from private sources. Moreover, longer and harsher interrogations can be used against suspected terrorists or supporters of terrorism. The UK case is notorious, with the Terrorism Act of 2006 allowing for a maximum of 28 days of pre-charge detention¹⁸, and the Counter-Terrorism Act of 2008 allowing for post-charge interrogations before trials! Second, apart from the adoption of stronger immigration and asylum laws, it is not rare to observe longer and harsher procedures for foreign citizens. Epifanio (2011) shows that government agencies have been given the right to release control or detain orders for suspected international terrorists, and foreigners can be now expelled for the expression of personal views deemed to be in conflict with values of the host country.

Besides the members of terrorist organizations, all their collaborators are targeted by the aforementioned measures as well. This is done for each type of support, going from hate speech against terrorism victims to the provision of technological or financial resources. Apart from fines and imprisonment, confiscation of assets of such sponsors is applied, in an attempt to damage finances of the organizations. To prevent eventual monetary inflows, banks have to inform security agencies on international bank transfers of their clients. Last, proactive measures have taken a new form since several Member States (France, Germany, Italy, The Netherlands, Poland, Romania, Spain and the United Kingdom) have been involved in large-scale military attacks led by the United States against terrorists and their supporters, such as the war in Afghanistan started in October 2001.

¹⁷For example, during the first decade after 9/11, Spain did not implement any new legislation to target terrorism explicitly. On the contrary, the U.K. adopted at least six relevant new acts.

¹⁸The maximum period was later reduced to 14 days with the Protection of Freedoms Act of 2012. Spain has also a long maximum period of pre-charge detention of 13 days.

3.2. The situation in the United States of America

The 9/11 attacks made the United States both a symbol of the vulnerability to terrorism and a leading actor in what was coined 'global war on terror'. Besides the existing legislation, US institutions have adopted new laws and measures dealing principally with investigation and detention of suspected terrorists, terrorism finances and the use of military force. On one hand, similarly to the EU, the US apply now stronger defence systems to protect potential targets (especially in the aviation industry), harsher punishments for terrorists and their supporters, stronger financial regulations to prevent and restrict financing of terrorist groups, and stricter immigration and asylum procedures. US counterterrorism legislation and policy have been particularly aggressive in terms of investigation and detention practices – especially for foreign citizens – as well as regarding the use of military force and foreign aid against countries generating transnational terrorism.

Some of the core measures related to information collection policies are based on the implementation of the USA PATRIOT Act of 2001, its modified extension: the USA Freedom Act of 2015, and the PRISM Surveillance Program of 2007. While being reluctant to extend the pre-charge detention beyond 48 hours for own citizens, US legislation allows for foreigners suspected of terrorism a maximum of 7 days of such detention. Moreover, the rights of various agencies such as the Federal Bureau of Investigation, the Central Intelligence Agency and the National Security Agency have been significantly expanded as regards crimes related to terrorism. These authorities gather huge amounts of data regarding American and foreigner citizens, from public and private sources. Furthermore, they can apply harsher illegal interrogation procedures, such as the infamous extraordinary rendition practice, in the attempt to acquire relevant information.

On the other hand, the US have been continuously leading military operations targeting terrorist organizations and their support groups, such as those in Afghanistan, in the Philippines, in the Horn of Africa and in Iraq. Moreover, US institutions have supplied foreign aid to governments in countries that are sources of transnational terrorism, such as the aid to the Afghan government after the withdrawal of American military troops from the country. The US foreign aid has been either in the form of technological and human support for security policies or in the form of financial aid.

4. Conclusions, recommendations and limitations

Terrorism is a very complex and dynamic socio-political phenomenon in which perpetrators use premeditated violence to support a specific cause by targeting a large audience, which extends far beyond the immediate victims of terrorist acts. Differently from other crimes, terrorist activities have a strong ideological background and ultimate goal. In the end, terrorism is a political crime.

Each terrorist organization ultimately aims at the maximization of political and economic power and influence for its movement and can do that either by engaging in ordinary political processes – where possible – or by using terrorism. If the economic or political conditions faced by the movement get worse, the nonviolent solutions become either very costly or practically impossible. Hence, more terrorism is generated. The would-be terrorist makes his own decision to participate in terrorist activities or not following a cost-benefit analysis of pecuniary and non-pecuniary benefits on one hand and direct (legal and social) costs on the other. On the opposite side, states seek to efficiently reduce terrorism by implementing reactive defensive measures or proactive offensive ones, which give rise respectively to negative and positive externalities for

other countries. Terrorism itself is a 'public bad' that has a symbiotic relationship with media, due to the need of the former to reach large audiences and the desire of the latter for sensational news.

Empirical evidence related to terrorism is quite scarce, country-specific and contradictory and it suffers from various methodological problems. Nonetheless, it seems to suggest that, in average, a terrorist is more likely to be a young unmarried male with higher than average education and income. At an aggregate level, domestic terrorism is positively related to worse economic conditions, to the presence of economic discrimination in the society and to political instability. It is negatively related to the implementation of social welfare policies, to the economic integration of the country and to the quality of institutions. Finally, partially democratic regimes are more likely to experience terrorism compared to democratic and authoritarian regimes. The likelihood of a country to become a source of transnational terrorism diminishes with the presence of better economic integration and social welfare and it increases due to political instability and state failure. In relation to the targets of transnational terrorism, data show that political instability and poor quality of the institutions make it more likely for a country to be targeted.

Even after all the changes made in the aftermath of 9/11, legislators and governments continue to rely heavily on deterrence and defensive measures, while proactive measures have sometime been extreme. Such approaches may be useless, be not enough or be a source of perverse incentives and spillover effects. Therefore, changes should be made in the current legal framework and policies and new laws and strategies have to be adopted.

In sum, the final goal of counterterrorism ought to be to make ordinary political paths easier to access for the various groups in one society and the various countries at an international level. Hence, the approach should be to go to the roots of grievances that fuel terrorism instead of targeting their symptoms with a 'war on terror'. The promotion of economic and political integration, at a national or international level, could help to do that. Keeping in mind that there is not a 'one size fits all' solution, using a mix of flexible, proportionate multilateral policies specifically targeted on the right actors (e.g., using threats against the 'weakest link' or implementing benevolent measures to affect incentives instead of only using the 'stick') can help to achieve an efficient reduction of terrorist activities. After all, any counterterrorism law or policy comes with some consequences, either in economic terms or by taking the form of restrictions of human rights and civil liberties to make citizens feel safer. These trade-offs should be taken into account when choosing whether to allocate more resources to military attacks or to social welfare and when deciding how far can investigation practices go.

Despite the efforts to include all aspects which are relevant to the study of terrorism and consequently to the search for efficient counterterrorism measures, this work inevitably has some limitations. First, the analysis focuses on domestic and transnational terrorism, while generally leaving out the specific types of suicidal terrorism and lone-wolf terrorism. Moreover, this study does not deal with the increasingly present cyber-terrorism but only with 'traditional' terrorist activities. Second, the work here abstains from the cases of state supported terrorism, both from the one targeting foreigners and from the one used against own citizens. Third, this contribution is just one part of a research project that aims to propose new legislation and policies in order to improve the response to terrorism. To conclude, hopefully these limitations are not strong enough to limit severely the findings of this study and will be overcome in forthcoming follow-up research.

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