

The Government Reply to
the Report by Lord Carlile of Berriew Q.C.
Independent Reviewer of Terrorism Legislation

The Definition of Terrorism



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Presented to Parliament
by the Secretary of State for the Home Department,
by Command of Her Majesty

June 2007

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Lord Carlile of Berriew QC
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7th June 2007

REPORT ON THE DEFINITION OF TERRORISM

Thank you for your report on the definition of terrorism. I am very grateful to you for providing such a considered and comprehensive review of the existing definition. The definition of terrorism that is included in section 1 of the Terrorism Act 2000 has given rise to considerable debate over the years and your report makes an important contribution to that debate. I broadly welcome the conclusions of your report but would like to take this opportunity to respond to each in turn.

As with your previous reports, I will be placing a copy of the Government's response in the Library of the House and on the Home Office website.

I hope that this has sufficiently responded to the conclusions you have reached and thank you once again for your report.

JOHN REID

HOME OFFICE RESPONSE TO LORD CARLILE'S RECOMMENDATIONS ON THE DEFINITION OF TERRORISM

1. There is no single definition of terrorism that commands full international approval.

We accept this conclusion. There is no universally accepted definition of terrorism and it is an issue which international bodies continue to debate.

2. The risks posed by terrorism and its nature as crime are sufficient to necessitate proportional special laws to assist prevention, disruption and detection.

We accept this conclusion. However, we only legislate to create terrorism-specific offences and powers where this is necessary because of the particular nature of the terrorist threat. Our anti-terrorism legislation therefore contains some specific terrorism offences. However, they are relatively few in number.

3. A definition of terrorism is useful as part of such laws.

We accept this conclusion. It has practical importance, triggers many powers and contributes to the description of offences.

4. The current definition in the *Terrorism Act 2000* is consistent with international comparators and treaties, and is useful and broadly fit for purpose, subject to some alteration.

In general terms we believe that the current definition of terrorism is both comprehensive and effective and there is no evidence that the broadness of the definition has caused problems in the way it has operated.

5. Idiosyncratic terrorism imitators should generally be dealt with under non-terrorism criminal law.

We accept this conclusion. Terrorism specific offences, preventative measures and powers should only be used either where no comparable general offence exists or where specific powers or measures are needed to enable them to investigate or prevent this special category of crime.

6. The discretion vested in the authorities to use or not to use the special laws is a real and significant element of protection against abuse of rights.

We accept this conclusion. The definition of terrorism is broad enough to ensure that all cases of what would generally be considered terrorism are caught. The definition does however contain a number of tests that need to be met – that an action or threat of action needs be designed to influence a government or intimidate the public, that the action or threat is made for the purposes of advancing a political, religious or ideological cause and that it

involves serious violence against a person, serious damage to property, endangers a person's life or creates a serious risk to health and safety or is designed to seriously disrupt or interfere with an electronic system. These tests mean that most of the actions which would generally be accepted as non-terrorist in nature fall outside the definition. It does not mean that non-terrorist activities will never fall within the definition but in such cases we rely on the police and Crown Prosecution Service in making sure that the definition is not inappropriately applied.

7. The exercise of such discretion requires especial care by those in whom the discretion is vested.

We accept this conclusion.

8. New sentencing powers should be introduced to enable an additional sentence for ordinary criminal offences, if aggravated by the intention to facilitate or assist a terrorist, a terrorist group or a terrorist purpose.

We accept this recommendation subject to undertaking further work on the proposal. We agree that enhanced sentencing for terrorist and terrorist-related offences might be appropriate given the potential and real nature and scale of terrorist attacks.

9. Offences against property should continue to fall within the definition of terrorist acts.

We accept this conclusion. Economic targeting, such as that attack on the Baltic Exchange in the early 1990s, has long been a tactic employed by terrorists. This was clearly a terrorist attack and should remain within the scope of any definition. Equally, an attack on the electronic infrastructure of a country may not harm anyone directly but it could have untold economic or social implications.

10. Religious causes should continue to fall within the definition of terrorist designs.

We accept this conclusion.

11. The existing law should be amended so that actions cease to fall within the definition of terrorism if intended only to *influence* the target audience; for terrorism to arise there should be the intention to *intimidate* the target audience.

We do not consider that the bar is set too low by the use of the word *influence*. We consider that there may be problems in terms of using the word *intimidate* in relation to governments and inter-governmental organisations but this is an issue we will explore further with Parliamentary Counsel.

12. The existing definition should be amended to ensure that it is clear from the statutory language that terrorism motivated by a racial or ethnic cause is included.

We accept this recommendation subject to further work with Parliamentary Counsel.

13. Extra-territoriality should remain within the definition in accordance with international obligations.

We accept this conclusion. Terrorist action falling within the definition should be equally criminal whether it is intended to take place in the UK or elsewhere.

14. A specific statutory defence of support for a just cause is not practicable.

We accept this conclusion.

15. A new statutory obligation should require that the exercise of the discretion to use special counter-terrorism laws in relation to extra-territorial matters should be subject to the approval of the Attorney-General having regard to (a) the nature of the action or the threat of action under investigation, (b) the target of the action or threat, and (c) international legal obligations.

We are considering this recommendation with the Attorney General and others.

16. The law should not be amended to enable the use in the United Kingdom of the special laws against persons subject to diplomatic immunity.

We accept this conclusion. Diplomatic immunity is a vital means of maintaining government relations, including in periods of difficulty and armed conflict.



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