
STATE-SPONSORED TERRORISM: LEGAL GAPS, GLOBAL PERSPECTIVES, AND CONSEQUENCES

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ABSTRACT

State-sponsored terrorism presents a unique loophole to international legal framework, security, and accountability. This article examines the concept of what is terrorism backed by state actors, its impact on targeted nations and its civilians, and the existing voids in international and domestic legal frameworks. With the help of case studies and global responses, the article highlights the limitations of current international law in addressing state-sponsored acts of terror and also the limitations on countries and their policies to prevent such act. Furthermore, it explores the social, political, and economic consequences of such actions and proposes potential pathways to strengthen legal mechanisms for prevention, prosecution, and global cooperation.

State-Sponsored Terrorism:***Legal Gaps, Global Perspectives, and Consequences***

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State-sponsored terrorism over the years has been a topic of heated discussion among the lawyers, authorities, and scholars. It not only poses a significant threat to the international peace and security but also can damage a targeted nation economically and socially. International laws have thus far failed to recognize the global impact of terrorism and its legal implications. State-sponsored terrorism fosters a barbaric mindset, driving the world towards international instability in peace and security while causing widespread destruction to the social and economic fabric of nations. The practice of state-sponsored terrorism allows nations to engage in geopolitical rivalries at lower cost. Nations use it as a tool to undermine the rivals without engaging in direct conflicts.

What is state sponsored terrorism?

The term terrorism in general terms can be defined as use of violent act by non-political actors with the intent to create a sense of terror(fear) among people to attain political, economical or religious objectives.

The United Nations Security Council Resolution, 1956 defines terrorism as

“Criminal acts, including against civilians, committed with the intent to cause death or serious bodily injury, or taking of hostages, with the purpose to provoke a state of terror in the general public or in a group of persons intimidate a population or compel a government or an international organization to do or abstain from doing any act.”

This definition was approved by the UN general assembly in 2006.

State sponsored terrorism broadly refers to direct or indirect involvement of countries in funding, aiding and providing shelter to the not-state terrorist groups to achieve their political agenda without coming upfront. This acts as a geopolitical tactic to takedown one's rival country. The definition at the global level varies by actors but is recognised by many different world organizations.

For example, NCJRS (U.S. Senate Subcommittee report) defines state sponsored terrorism as “Direct or indirect instigation, by a government, of official and non-official groups to exercise psychological or physical violence against political opponents for coercion and widespread intimidation”.

The Rome Statute empowers the ICC to prosecute genocide, crimes against humanity, war crimes, and aggression (Articles 5–8 bis). However, terrorism is absent, despite early consideration during drafting. This omission reflects the political sensitivity of labelling states as terrorism sponsors.

- Article 5: Defines crimes under ICC jurisdictions- genocide, war against humanity, war crimes and aggression.
- Article 6: This article defines the act of mass killing (Genocide) with the intent to destroy in whole or a part of the national, racial, ethnical or religious groups.
- Article 7: This article defines act of systematic attack directed against any civilian, with knowledge of the attack including murder, enslavement, torture, rape, apartheid etc.
- Article 8: This act defines serious violations of the laws and customs of armed conflict, such as intentional attacks against civilians, unlawful deportation, use of prohibited weapons, etc.
- Article 8 bis: Defines crime of aggression and deals with state’s armed force involvement in initiation, funding, execution, or planning.

According to the UN:

- UNSC Resolution 1373 (2001): Obligates states to prevent and suppress financing of terrorism and to refrain from supporting terrorist groups.
- The Resolution 1566 of 2004 highly condemns states supporting terrorist acts even if indirect to intimidate governments.
- Through these the United Nations Security Council (UNSC) declares state sponsorship of terrorism unlawful under international obligations.

Global legal perspective

Different countries approach the question of state sponsorship of terrorism according to their own geopolitical interest, security priorities, diplomatic objective and legal framework. Their official perspectives, national policies and political attributes are shaped by complex, historical, regional and ideological factors.

United states

The United States maintains a list on the “state sponsors of terrorism” highlighting nations which are highly supporting terrorism. This list includes Iran, Syria, Cuba, Sudan, and North Korea. This list is however very much arbitrary in its nature as over the years there has been so much terrorist movements recorded from North Korea and Cuba while Sudan has changed its ways enough to Bush administration credits Sudan as a strong partner in the War on Terror.

The US needs to think out of the picture as to what seems like brilliant policy success may be vague and baseless. Critics argue that the U.S. ‘state sponsors of terrorism’ list is inconsistent, reflecting shifting political interests rather than objective criteria. Pakistan has long aided terrorist groups against India to conquer Kashmir and is a major sponsor of Taliban forces fighting the U.S.-backed government in Afghanistan. Countries like Palestine, Iraq and Yemen deliberately back the terrorist groups. One of the most prominent examples of such brilliant of a list is that the US never in this list mentioned Saudi Arabia despite the 9/11 attack. In one such incident which took place on 21st December in 1988 when the Pan Am flight 103 was exploded over the Lockerbie, Scotland sky killing almost 270 people, out of which 190 were U.S. citizens. Investigations revealed that the bombing was led by Libyan intelligence agents under Muammar Gaddafi’s regime. There were two accused agents of the Libyan organisations, Abdelbaset al-Megrahi who was convicted in 2001 and was sentenced to life imprisonment and Al Amin Khalifa Fhimah was acquitted. However, Al-Megrahi was released in 2009 on compassionate grounds due to terminal cancer who later died in Libya in 2012. The UN Security Resolution imposed sanctions on Libya which further led to their surrender in 2003. Libya was never listed on this list.

India

India is very much outspoken about the matter of fact and raises its concerns at the global forums like UN. India asserts that terrorist groups like Lashkar-e-Taiba and Jaish-e-Mohammad

are state aided and the terrorist attacks by these groups in Pulwama (2019), Pathankot (2016) and Mumbai (2008) are funded by Pakistan. The country calls for verifiable, credible and irreversible actions against terror acts aided by Pakistan.

1. India has developed necessary legal frameworks, and institutions, in order to counter and suppress the threat of terror-sponsorship. India became member of Financial Action Task Force in 2010, allowing itself to bring its systems and practices in line with international standards conducted by the FATF. *The Kargil war* during May-June 1999, the Pakistani army entered the Line of control crossing into Indian territory in Kargil, Jammu Kashmir. India retaliated the act leading to an intense war. Pakistan however, officially denied its involvement, but later evidences were found including admissions by Pakistani military officers. This proved that the operation was carried out by Pakistan Army units alongside militant groups like Lashkar-e-Taiba. This exposed the use of terrorist groups as proxies for achieving state military objectives.

European and Global Perspectives

European Union: The EU and its member states hold a multifaceted perspective on state-sponsored terrorism, treating it as a major threat to peace, security, human rights, and democratic values although it lacks legal framework to officially designate states as sponsors of terrorism. It uses financial, travel and arms sanctions to indirectly punish the state sponsors of terrorism. Like USA, EU also has a terrorism list but is confined only for individual and not for the states.

In *Application of the International Convention for the Suppression of the Financing of Terrorism (Ukraine v. Russian Federation)*, *Application Instituting Proceedings*, I.C.J. (Jan. 16, 2017), Ukraine alleged that Russia financed and supported armed groups in Eastern Ukraine. The ICJ admitted jurisdiction under the Terrorism Financing Convention, demonstrating how state sponsorship claims can proceed only through specific treaty mechanisms.

Financial Action Task Force (FATF)

The FATF is an intergovernmental body founded in 1989 to counter money laundering, terrorist sponsorship and proliferation financing. The key principle on which the body works is the that “a state must criminalize terrorist financing, monitor transactions and prevent its funds from

flowing into terrorist groups”. The FATF however, does not directly use the term “state sponsors of terrorism” or criminalizes it, rather it uses list to highlight nations which require monitoring. For example, Grey list (requires increased monitoring – Pakistan until 2022) and Black list (High-risk jurisdictions – e.g. North Korea, Iran).

Although FATF does not criminalize state sponsorship directly, its grey/black listing mechanisms exert significant economic pressure, making it an indirect deterrent. This organisation often referred to as “watch dog” includes 40 major economies of the world and 30 observer international organisations.

Consequences of state sponsored terrorism

The state sponsorship of terrorism leaves a long lasting and adverse impact not only on the lives of the victims but also it weakens a nation’s spirit sometimes by breaking its economical, geopolitical, social, psychological and legal framework.

1. Economic consequences: The state sponsorship of terrorism leads to contraction in economies and structural changes of the same the result of which is failed industrialisation, capital overflow, economic instability and inflation, disruption of infrastructure and trade. Foreign investors feel aversive to invest their money in countries vulnerable to terrorism.
2. Social and Humanitarian Consequences: Conflict and terrorism cause significant humanitarian disasters, including thousands of lives lost and millions of people displaced, which triggers severe international refugee crises. These crises overextend regional resources, burden neighbouring states, and increase geopolitical instability. This causes immense instability among the humanitarian rights of the civilians and impacts them psychologically. Sometimes, women are raped, enslaved or thrown into prostitution. These atrocious acts break the will of a nation altogether.
3. Geopolitical consequences: The terror attacks often lead nations to fight wars from backend without their spotlight presence which helps them attain their geopolitical agendas at lower cost. This leads to constant tension among rival countries.
4. Erosion of Human Rights and Civil Liberties: The state sponsorship terrorism often leads to social tensions and instability which further creates a conflict between security

needs and obligations to protect individual freedom. State sponsorship of terrorism describes how national security, is often used to justify depletion of rights and how countries neglect human rights and civil liberties pertaining to their personal goals and agendas.

Conclusion

The State-sponsorship of terrorism continues to represent one of the most complex, controversial and destabilizing issue to global security, peace and law. Despite being a topic of heated discussion among the international headlines there remains no officially and universally accepted definition of the same. Though many different nations and organisation indirectly deal with the issue, they fail to come up front with a well-recognised legal framework. This definitional ambiguousness causes the states to use to create loopholes the structural framework of the organisations causing them to deliberately support and fund terrorist groups to fulfil their geopolitical agenda without moving for actual military war among the nations which is more cost effective to them.

Moving forward, the international organisations must adopt a more unified and legally binding definition that clarifies and penalizes state-sponsored terrorism, with strict execution mechanisms. Also, international organisations must professionally investigate about states funding terrorist groups. These lists must not confine itself to only covering nations funding terrorism in Europe and America, but all across the world. And must be updated and given proper warning with strict actions taken against them if proven. Without this, efforts will remain obscure, enabling nations to manipulate the ambiguity to their advantage. Only through collective political will, legal clarity, and structured institutional reforms, the world can effectively prevent state-sponsored terrorism and safeguard international peace, security, stability, and human dignity.¹

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1. Rome Statute of the International Criminal Court, July 17, 1998, 2187 U.N.T.S. 90.
 2. U.N. Security Council, Res. 1373, U.N. Doc. S/RES/1373 (Sept. 28, 2001).
 3. *Application of the International Convention for the Suppression of the Financing of Terrorism (Ukraine v. Russian Federation)*, Application Instituting Proceedings, I.C.J. (Jan. 16, 2017).
 4. U.S. Dep't of State, *State Sponsors of Terrorism List*, Bureau of Counterterrorism (2024), <https://www.state.gov/state-sponsors-of-terrorism/>.
 5. Financial Action Task Force (FATF), *Jurisdictions Under Increased Monitoring – June 2022*, FATF-GAFI (June 2022).