

By Leila Ouardani

'The basic question is not whether terrorism can be defeated; even third-rate dictatorships have shown that it can be put down with great ease. The real problem is the price that has to be paid by liberal societies valuing their democratic traditions.'

Walter Laqueur

Over the last two decades considerable academic debate has taken place concerning the correlation between differing political systems and terrorism. It has become somewhat conventional wisdom to argue that liberal democracies are disadvantaged, when compared to illiberal non-democracies, in countering terrorism because of institutional constraints that prevent them from responding to terrorism with repression.

In 1993 Alex Schmid and Crelinsten Ronald published *Western Responses to Terrorism*. This analysis revisits this seminal work and draws upon a number of other theories proposed by academics. Alex Schmid posited that liberal democracies possess four inherent 'prime weaknesses' against terrorism: freedom of movement, freedom of association, an abundance of targets, and constraints of the legal system. Since much of the evidence that Schmid used in his study has become redundant, his theories are reconsidered in light of the present-day situation. Kimbra Krueger's proposition that democratic societies are particularly vulnerable to a form of violence that incites their governments to overreact and subsequently lose legitimacy will be also considered, as will the impact of freedom of the press and other media within liberal democracies.

The first of the four 'prime weaknesses' that Schmid identified was the freedom of movement found in liberal democracies. His analysis described the situation in 1993; he referred to the growth of 'private cars, mass tourism and international migration' and to the formation of the Schengen agreement in Europe as particularly problematic for liberal democratic states attempting to counter terrorism. His general argument was underpinned by the idea that free movement facilitates terrorist activity. Schmid was particularly concerned with immigrants and political refugees residing in Western Europe that could potentially offer infrastructures to international terrorism. Referring to Salman Rushdie's *The Satanic Verses* and the subsequent Europe-wide mobilisation of these groups in protest, for him, provided a forewarning. Given the contemporary debates on the potential radicalisation of some sections of the European Muslim community, Schmid's concern was well-founded. Affordable freedom of movement has facilitated, for instance, the training missions of terrorists. However it appears that when identifying this issue Schmid was influenced by the restrictions on movement found in authoritarian, socialist states at the time. The divisions between these countries are not as stark as they once were. Over the last two decades there has been a transition process involving the dismantling of former police and tight border controls which had existed in former socialist

states and countries such as South Africa. In any case the continued growth in the volume and range of goods and services traded within the EU, for instance, is of particular concern. The European investigations post-September 11, 2001 found that many terrorists had supported themselves through organized crime activities such as credit card fraud across nation's borders. By spanning different jurisdictions terrorists attempt to minimize the risk of effective law enforcement. The terrorists behind the September 11 attacks in 2001 planned their crime in Hamburg, received training in Afghanistan, funding from the Middle East and perpetrated their crime in the United States. However in many ways these trends are a product of the globalising forces that operate in the world today that do not distinguish between borders, while 'free movement' areas such as within the EU are more vulnerable, other political systems are also affected.

The second 'prime weakness' that Schmid believed undermined liberal states ability to counter terrorism was the freedom of association found in Western democracies. He argued that 'the private lives of citizens are not the business of the state' In such cases, terrorists can abuse the freedom of association provided by democracies in conspiracies against the state itself. Indeed in more than 10,000 pages of Egyptian state security documents, Britain is named as one of the key bases of Al-Zawahiri's Islamic Jihad organisation. Three leading members of its ruling council were based in London where they established an important fundraising centre, made money through and were members of other sympathetic organisations. However since the terrorist attacks in the US in 2001 both international and European liberal democracies have to some degree or another prevented freedom of association to terrorist-linked groups. For instance, the potential for creating quite wide ranging restrictions was established in the UK under the Terrorism Acts since 2000. Moreover, the Anti-terrorism Act and Patriot Act in the United States placed a much heavier burden on those charged with association with any terrorist organizations. Nevertheless a number of human right instruments pertinent to freedom of association exist and do provide restrictions that must be adhered to within liberal democratic states: the UN International Covenant on Civil and Political Rights, the Intra-American Convention on Human Rights, and the European Convention on Human rights. According to Article 11 of ECHR any interference to freedom association must be prescribed by Law, serve a legitimate aim and be necessary in a democratic society.

The third 'prime weakness' which Schmid identified was the abundance of targets in open societies. He argued that while we might seek to protect some buildings and infrastructural facilities since the terrorist strategy is not primarily a counter-force but a counter-value strategy this results only in a shift of target selection. In democracies where citizens are constitutionally equal, value is placed on all human life, and therefore almost any group of citizens can be victimized by terrorists to put pressure on the state. For liberal democracies, an ongoing counter-terrorist strategy can be called into question with a successful attack on any public place. Actions by governments to guard one venue may simply prompt the terrorists to shift to another target. For instance, as early as 2004 following the further hardening of the United States' already hardened targets, such as the U.S.Capitol and New York Stock Exchange it was predicted that al-Qaida would soon go after 'softer' American targets, such as malls and transit systems. Indeed it is arguable that the fortification of US embassies has led to more assassinations and attacks against embassy officials in non-secure venues. Moreover action to protect officials has shifted focus to business people and tourists, such as in the Bali attack in

2005. Although lower in symbolic value, it is widely believed that these targets could be as high in psychological damage to the country. For Schmid, while target hardening is desirable, it was also limited. He argued that El Al's 30 per cent expenditure on security in 1993 to be atypical and not replicable in other public and commercial fields found in liberal democracies. However in recent years commentators have noted the massive levels of spending in target hardening within liberal democracies although it involves huge costs and so few benefits.

The fourth 'prime weakness' which Schmid pointed to were the constraints posed by liberal democratic legal systems in the countering of terrorism when compared to those systems within non-democratic regimes. Indeed the struggle against terror in the democratic state must be waged within the law using the tools that the legal system makes available. This is what distinguishes the state from terrorists. The state operates within boundaries of the law as opposed to terrorists whom contravene the law. Traditionally built-in legal restraints protect people in liberal democracies and inhibit taking actions against suspected terrorists. In the past, for instance, restraints on government unwarranted search and seizure have allowed terrorists the freedom to acquire vast arsenals, provided that their actions do not arouse the suspicions of authorities. The right to privacy also makes it more difficult for liberal democratic governments to spy on suspected terrorists without showing just cause.

It is quite rare that established democracies openly decide to contravene the law such as Israel's policy of assassinating those it holds to be terrorists, the option of modifying the law is a far more tempting one. In liberal democracies across the world, special emergency laws which may restrict or abrogate civil liberties in order to give security forces with increased powers of surveillance, search, or detention of suspects have been rapidly enacted in the wake of terrorist attacks, especially after September 11, 2001. While Schmid recognised that recourse to unlawful methods of repression were likely to negatively impact upon legitimacy, he did not consider the possibility that anti-terrorist measures may fundamentally corrode or subvert the constitutions which they aim to defend. Following the July 7, 2005 attacks in London, Prime Minister, Tony Blair, declared: "Let no one be in any doubt the rules of the game are changing". In some quarters these changes in law to aid the counter terrorism effort are considered draconian. Indeed some commentators propose that however enticing or expedient an unlawful or draconian approach may appear, one of the prime advantages democracies possess over other types of regimes is that 'they enjoy legitimacy in the eyes of the overwhelming majority of the population'. It is argued that the recourse to perceived unlawful methods by governments is 'invariably exploited by the terrorists and their supporters with a consequential decline in government legitimacy'. By contrast, an autocratic government is less responsive to public pressure and can more easily apply draconian measures against the terrorists and their families as well as innocent civilians.

The pressure of public anxiety is inevitably greatest in democratic societies, where various public representatives, including a free and professionally alarmist media, will demand action even if ordinary people do not. In democracies there exists a tension between the short-term more emotional and instinctive need for a government to be seen to be acting in a crisis against a more long-term and effective approach. As Louise Richardson put it, 'when the United States declared war on al Qaeda, it simply repeated a pattern that other democracies before us had followed in the wake of terrorist atrocities.' In many ways the urge to declare war in response to

an atrocity on the scale of the attacks of September 11, 2001 is not only powerful but understandable. Indeed it is arguable that any US administration irrespective of ideological persuasion would have been under pressure to respond in a similar, if not precisely the same way.

Yet for many experts of risk a dispassionate assessment of the actual threat posed by 'pure terrorism' for established liberal democracies would result in it being ignored altogether. Charles Townsend has suggested that statistically terrorism is far less a substantial danger (and even following September 11 attacks it is not evident that it fits the American mantra of 'clear and present'—a criterion specifically designed to inhibit the tendency of governments to exaggerate threats) than road traffic accidents, and very much less amenable to preventive action. However for political and psychological reasons the option of wholly disregarding the threat is, as already stated, not possible in liberal democracies. Inaction, either through conciliation or incompetence, effectively allows terrorism to directly threaten both individual rights and liberty and as a result undermine government by consent. As Peter Chalk puts it: 'Terrorism, if left unchecked, will inevitably lead to a gradual condition of lawlessness and outrage in which people systematically lose confidence in the ability of the government to provide a safe, secure society, free from the arbitrary coercion of others'. Indeed in an operative liberal democracy where citizens suddenly find that their government is not taking the perceived necessary measures and they find themselves having to defend themselves against internal or external threats—they may turn to paramilitary organisations to defend perceived ethnic, religious, political and economic interests.

By contrast, Lacqueur argued that prior to 2001 democracies that faced a terrorist challenge tended toward under-reaction and were prevented from effective counter-terrorist strategy, because the identity of the perpetrator may not have been clear. Such an obstacle is unlikely to have impeded illiberal non-democratic states. However while this can be argued to have been the case prior to 2001, the attacks on the United States of that year and the much referenced potential CBRN threat has, as Richardson argued, led to considerable overreaction. Condeleeza Rice's statement that "our citizens will judge us harshly" illustrated not only the overwhelming pressure to retaliate on a bigger scale as an act of revenge but also to forestall future attacks with whatever means necessary.

In many ways the essential freedoms enjoyed by the press, television and radio within liberal democratic societies go some way in enabling terrorist groups to operate. While individual acts of terrorist violence tend to be relatively small-scaled when compared to conventional attacks, the terrorist aim to shock, frighten and intimidate an audience beyond its physical victims relies on publicity not often found in non-democratic regimes. Wardlaw has suggested that within liberal democracies there exists a symbiotic relationship between the media and terrorism where terrorists provide the media with news that sells, while the media provide the terrorists with publicity. In autocratic states, terrorists have to rely on more primitive forms of message dissemination which are limited in scope. For instance, due to state control of the press in the late nineteenth century Russian anarchists resorted to constructing their own underground newspaper only to find very little success in message dissemination.

While it is generally accepted that terrorism has proven ineffective in the capturing political

power it has been quite successful as a means of publishing its cause for which the free media has been crucial. For this reason, established and sophisticated terrorist groups along with their 'political front' organisations have devoted time and energy in waging propaganda warfare domestically and internationally. For example, many terrorist groups such as Hamas, the PLO, the IRA, ETA and Hezbollah used their 'political wings' to disseminate their messages through the mechanisms of free speech only found in liberal democracies.

In addition to providing the venue for the spread of terrorist ideology, media coverage can also provide strategic advantages to terrorists. For example, it can supply terrorists with critical real-time tactical information, such as particular political pressures that can be exploited during negotiations. The media reporting of the TWA Flight 847 hijacking provided considerable exposure to the hostages, increasing the pressure on both the Israeli and US government to do any deal so to ensure their release. As Schmid put it: 'The exposure increased the price of the 39 US hostages and made their potential sacrifice extremely costly for the American and Israeli government.' Moreover there are numerous examples where police and security efforts against acts of terrorism have or could have been directly threatened by the actions of the liberal democratic media. For instance, in 1980 during the Iranian Embassy siege the Metropolitan Police were concerned to ensure complete secrecy and surprise for the hostage rescue by the SAS. However, the Independent Television News (ITN) film crew defied police direction by filming the SAS as they abseiled down the walls of the embassy. Had these images been transmitted on live television, they may have had jeopardised the mission. Most recently, Bob Quick's inadvertent exposure of a secret document dealing with 'Operation Pathway' to photographers and his subsequent resignation clearly demonstrates that in a liberal democratic state it is not possible to ensure that police anti-terrorist operations will be safeguarded against compromise or disruption of media activity.

### Conclusions

It has been argued that liberal democracies possess a number of institutional constraints which make counter-terrorism more difficult: freedom of movement, freedom of association, the abundance of targets and the rule of Law are all aspects that impact upon liberal democratic counter-terrorist strategies.

However freedom of movement is not simply a by product of liberal democratic political systems, albeit to a lesser degree the forces of globalisation have affected other political systems fight to counter-terrorism. The challenge to liberal democracies is to benefit from the advantages of free movement while at the same time minimising the security threats and facilitate the fight against terrorism within a wider framework of action. In general liberal democratic states that are members of either political or economic unions, such as the EU, should continue to strengthen internal security in a coordinated and multidisciplinary way while promoting stability and security beyond their borders in coordination with their neighbours. Inter-state coordination is improving. For instance, the arrest of Hussain Osman, one of the accused operatives of the failed 21 July, 2005 attacks in London, by Italian authorities in Rome using a European arrest warrant and allowing his extradition was demonstration that coordination among states is improving.

Freedom of association is a long held tradition within liberal democracies and one that needs to be maintained. However, recent changes in legislation that have taken place in a number of liberal democracies to balance this tradition with the requirements of securing the safety of citizens are justified. For instance, within the UK the proscribing of organisations involves a careful and systematic process. Reversals of proscription on groups such as MeK demonstrate the procedure to be in good working order. Careful and public scrutiny of proscribed groups should continue.

Targeting hardening of the abundance of targets that reside within liberal democracies is necessary and good practice. However it is arguable that recent public encouragements such as the UK Home Secretary's concerning the 'hardening' of all major shopping centres across the UK, to be futile. Indeed the calling card of many liberal democracies in the midst of terrorist attacks has been "business as usual", by increasing the amount spent on security this is not the message that is being put across. It is possible that such attempts could be a sign of one liberal democracy attempting to deflect a potential terrorist attack to another liberal democratic state that is without the financial means to protect itself—this is not a long-term policy and can be detrimental to inter-state relations which are so vital in combating transnational terrorism.

Maintaining the rule of Law within liberal democracies is not only beneficial but essential in combating terrorism. The statement attributed to Cicero to the effect that "in times of war the law falls silent" reflects neither reality nor what is desirable. It is true to say that operationally liberal democracies come across a considerable amount more obstacles than an autocratic regime. However simply removing these obstacles through emergency measures does not make combating terrorism any easier. In the current climate reversals of long-standing liberal principles can provide ammunition for terrorists. The significance of Osama bin Laden's declaration that 'the values of this Western civilization under the leadership of America have been destroyed. Those awesome symbolic towers that speak of liberty, human rights, and humanity have been destroyed. They have gone up in smoke.' did not go unnoticed. Indeed many terrorist attacks in the West came with accompanying justifications more often than not referring to Western repression. President Obama's foreign policy that places importance on the abundance of international law will successfully re-orientate the most powerful liberal democracy to a more effective strategy.

Free media and the issue of public accountability within liberal democracies infringe upon counter-terrorist strategies. Former British Prime Minister Margaret Thatcher understood the significance of the media, and in 1985 concluded: 'Democratic nations must try to find ways to starve the terrorist and the hijacker of the oxygen of publicity on which they depend.'

Today many democratic countries, laws or voluntary codes prevent terrorist groups and their supporters from being heard. The media can also be used to counter the terrorists' media messages, and it is important that liberal democracies implement their own media plan, although the overzealous use of 'spin' by governments needs to be carefully restrained.