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ABSTRACT

This research investigated an old political problem in a new cultural context: what is the idea of terrorism in China? Specifically, this research posed two inter-related research questions in search of an understanding of terrorism on Chinese soil: how did China conceive of terrorism in the imperial past? What is China's conception of terrorism in the communist present?

I

Introduction

Terrorism is an age old political phenomenon; as old as civilization itself. In the West, Greek historian Xenophon (cir. 431 – 350 BC) employed terror to intimidate the enemy. Roman emperors, such as Tiberius and Caligula, used terror to induce fear in the ruled (Unknown (n.d.). In the East, Chin Shih Huang (259 - 210 BC), the first Emperor of China, resorted to terror to secure his empire (Zhu 1994: 93).

Terrorism becomes a global phenomenon, international problem and public concern only in the twentieth century, with the rise of the Irish Republican Army in the West and formation of Palestinian Liberation Army in the Middle-East. Finally, 9/11 made terrorism a household name and international menace (White House (2001).

To date, there is no consensus over the meaning and causation to terrorism (Schmidt and Youngman compiled 109 different academic definitions, and found that they share some common features (Schmidt, A.P. et al. (1998). The idea of terrorism is often associated with: violence, force (in 83.5% of the definitions); political (65%); fear, terror (51%); threats (47%); psychological effects, anticipated reactions (41.5%); victims not target of violence (37.5%); intentional, planned, systematic, organized (32%); methods, strategy, tactics (30.5%) (Schmidt, A.P. et al. (1998).

This article investigated into the idea of terrorism in China. It asks one simple question: is there an indigenous notion of terrorism in China (Tao, A.L. (2002). Specifically, how did China conceive of terrorism in the past? What is the idea of terrorism in contemporary China?

This article is organized in the follow way. After this brief "Introduction," section II provides for a brief review of literature on terrorism in China. The review informs that there is very little research into the conceptual origin and intellectual history of terrorism in China, Section III "Terrorism in Imperial China" makes the case that while Western notion of "terrorism" has no counterpart in China's past, China has treated subversive activities most severely, as challenging to "heavenly mandate" ("tianming") and disruption of "cosmic order" ("dao"). Section IV: "Terrorism in Communist China" explores PRC's thinking about terrorism since 1949. It finds that PRC understanding of

terrorism exhibits a remarkable continuity with the past. Terrorist acts are considered a kind of counter-revolutionary crimes, Mao called it “antagonistic contradiction.” The last section, Section V: “Conclusion” offers a reflection on what have been learned.

II

Literature review

A key word search (China, terrorism) of criminal justice electronic search engines¹ turned up three relevant items (Anonymous 2002; Mabrey 2005; Wang, J.Z. 2003).

In 2002, an anonymous author wrote about the up surge of terrorism in Xinjiang China after 9/11:

“Chinese police in the capital of the far western region of Xinjiang arrested 166 violent terrorists and other criminals in a crackdown on crime. The arrests were made between Sep 20 and Nov 30 in a three-month push to crack cases in the predominantly Muslim region” (Anonymous 2002).

The next year, John Z Wang published an article describing terrorism in Xinjiang China in more details:

“The Eastern Turkistan Islamic Movement (ETIM) was designated a terrorist organization by Afghanistan, Kyrgyzstan, China, the United States, and the United Nations in 2002. However, no systematic studies have been published on the new terrorist organization in Xinjiang, China. Using a case-study approach and interviews, this article attempts to provide information in terms of its historical evolution, related religious and ethnic issues, organizational agenda, activities, and role in the current international terrorist network. This article argues that better international cooperation and the improvement of social and religious policies will help curtail activities of the ETIM” (Wang, J.Z. 2003).

Finally, in 2005, Mabrey confirmed the obvious – China was no longer insulated from terrorism, especially from separatists’ attacks at high profile international events:

“The People's Republic of China has been well-insulated from the threat of terrorism, with less than 300 official terrorism-related casualties recorded in the last 10 years. However, the rise of religious separatist extremism in western China and China's role as host of the 2008 Summer Olympics in Beijing are making counter-terrorism a new priority for the Chinese security forces” (Wang, J.Z. 2003).

¹ ProQuest (October 25, 2005) - Criminal Justice data set. A confirmation with A web search of Wilson Web with keywords: China, terrorism yield 130 items, only 1 is a peer reviewed article related to China terrorism (Wang, J.Z. 2003). A renew search on March 25, 2008, found nothing of interest.

A key word electronic search (China, terrorism) of political science – Asian studies journals turned up 566 articles.² Very few of them are directly related to terrorism in China. A detail examination of these literature shows that the term “terrorism” started to appear with some frequency at the end of 19th century and beginning of the 20th century, a time of great social turmoil (Perry 1984) and political upheaval for China (Perkins 1989). The subject matter of terrorism was brought up in relationship with dynastic rebellion, e.g., 1911 revolution (Wong 1977), domestic strifes, e.g., banditry (Tiedemann 1982) and warlords (Lary, D. (1966), civil wars, e.g., KMT vs. CCP (Boorman & Boorman 1966), anti-foreignism, struggles, e.g., Boxer rebellion (Perry, E.J. (1984), and external wars, e.g., war of resistance against Japan (Thaxton, R. 1977: 55).

More recently, research in terrorism has shifted to exploring domestic unrests, e.g., Xinjiang separatist movement (Tanner, M. S. (2004), international terrorism, i.e., multilateral cooperation to fight terrorism (Lampton and Ewing 2003” v.), and global human rights issues, i.e., how fighting terrorism raises human rights issues (Hoffman, P. (2004).

Finally, a key word (China, terrorism) search of legal journals search¹ turned up 256 articles of interest.³ A careful examination of this corpus of legal writings turned up two articles that discussed in some length recent development of terrorism in China. Both articles were written by Matthew D. Moneyhon, a law student then (2002 - 2003). Both of them were devoted to the reporting of political development in Xinjiang, and with it the necessity to touch upon separatists’ terrorist activities.

In one article, Moneyhon discussed terrorism in the context of independence and succession movement in Xinjiang. He observed that notwithstanding violence acts and terrorism activities by Xinjiang separatists - terrorists, the only political settlement that was acceptable to China would be Constitutional "autonomy," not separate statehood (Moneyhon 2002).

In another article Moneyhon observed that the PRC has been using economic development as a mean to incorporate Xinjiang within its political fold:

“Viewed within the context of China's evolving minority policy, Go West looks more like the latest incarnation of Beijing's strategy to integrate and assimilate ethnic minorities into the fabric of greater China, than it does a serious economic development and poverty alleviation plan” (Moneyhon 2003: Conclusion).

All the above studies adopted a conventional (Western) definition of terrorism in discussing terrorism in China.

If we were to investigate terrorism in China indigenously, we need to broaden the

² Project Muse Political Science Journals (October 5, 2005). A follow up search on March 25, 2008 JSTOR - Political Science Journals uncover 3100 items with key phrases terrorism in China or Chinese terrorism. None of them are relevant to our inquiry, i.e., idea of terrorism in China.

³ Lexis Nexis Academic Universe (October 7, 2005). Updated March 25, 2008. Search function adjusted to China and terrorism appearing within same paragraph.

scope and deepen our research. Instead of looking at “terrorism” as an established conceptual category, we need to look at “terrorism” in context of Chinese history, culture and society (Price 1997). For example, how armed groups and secretly societies challenging the government were dealt with in imperial China (Perry 1980; Tong 1991). This search strategy turned out to be much more fruitful and far more instructive.

Banditry⁴ was a serious social qua political problem in China. Banditry took on political character when they directly or indirectly challenged state authority. For example, in a May 1468 edict, the emperor wrote indignantly about the open challenge to his rule by roaming armed bandits:

“Recently banditry in and around the capital has become rampant. Openly riding their horses in gangs of several dozen, at night they set fires, brandish their weapons, and plunder residents' goods. During the day, [they] intercept the carts of those people who pass by, seizing their donkeys and mules. They even go so far as to take people's lives. Even though there are intendants charged with apprehending bandits, imperial soldiers from the warden's offices of the five wards, and patrolmen, they do not really try to capture the bandits; so that now they are totally unrestrained by fear and act outrageously” (Robinson 2000: 529).

Bandits or rebel groups in China resembled modern day terrorists in purpose, constitution, organization, and methods. They were oppressed by the government. They were anti-establishment, e.g., disrespectful of local gentry. They were against the government, e.g., disregard local magistrate. They sought social justice and political change by violent means, e.g., redistribution of wealth. They used terror tactics to induce fear, e.g., making traveling in the country side unsafe.⁵ They were well organized, e.g., charismatic leadership with loyal followings.

In imperial China, at the turn of the 20th century, secret societies conspired to undermine government authority, with the use of violence and terror (Ownby 1996, 2001). The most famous one was the Triad Society (or “Triads”). The Triads was first formed to “resist Qing, and return to Ming” (“fan Qing, fu Ming”). In order to avoid capture they turned underground (Chesneaux 1971). Much like modern day terrorists, they established elaborate rituals and rules to bind them together as an effective rebel group. They have no qualms in using terror to achieve their objective, e.g., torturing of informants (Ownby 1996).

By conventional standard, secret societies were consummate terrorist groups.ⁱⁱ Indeed, they were enlisted by both Dr. Sun to sabotage the Qing dynasty (DeKorne

⁴ Bandits were variously called *dao* and *zei*, see *Hanyu dacidian*, Vol. 7, pp. 1431-32 and vol. 10, p. 183 respectively.

⁵ In I400s the bandits in China build up a reputation of ruthlessness to effectual their exploits. For example, the "whistling arrow bandits" (*xiangmazi*, commonly abbreviated to *xiangma*) attached bells to their mounts or using whistling arrows when they raided (Robinson 2000:529). This recalls the pirates in the 17th century who used flags to announce their presence. This induced fear in the seafarers. In so doing, they could achieve their piracy without a fight (<http://www.kipar.org/piratical-resources/pirate-flags.html>).

1934). and used by Chairman Mao to subvert the Nationalist government (Schram 1966).

This literature search instructs there is very little serious research into terrorism in China, either as a domestic problem or as a domesticated concept.

To look at terrorism as a domestic problem is to recognize terrorism as a socially constructed experience (Berger and Luckmann 1996: 51-55, 59-61). This cautions against taking for granted how (Chinese) people think, feel, and act towards terrorism. To investigate terrorism as a domesticated idea is to research into how terrorism, as an imported idea, is given meaning anew in contemporary China.

Chinese “terrorism” research to date has not seen fit to question the appropriateness of adopting conventional (Western) idea of terrorism to understand associative terrorism experience in China.

III

Terrorism in Imperial China

As observed above, terrorism is an imported idea. As imported idea it is rootless and ill fitting (Hu 2001: Literature Review). In order to discover terrorism in China, we need to understand China’s view on gratuitous violence and idea of cosmic order (or “dao”). In imperial China, all forms of violence were frowned upon as immoral and dysfunctional (Puett 1998). Violence was considered alien to human nature and disruptive of the cosmic order (“luan”).ⁱⁱⁱ

This is contra distinctive from Hobbes who assumed that the nature of man is self-interested and barbaric and the nature is chaotic and disorderly (Hobbes 1666: esp. Chapters XIII to XXIV) In “Luxing”, it was said that people are born to peace only to have disorder imposed on them by evil doers. As a result the five punishments were established (*Book of History* 1996 : 264 – 280 (“Minister Lu on Punishment”))

The use of violence to challenge the Emperor, destabilizes the state, harm the citizens, and disrupt social order is considered a gravest offense (Turner, K. (1993). The Emperor has an affirmative duty to restore the cosmic order (“tianming”) and in accordance with rule of nature (“dao”) (van der Valk 1983). Conducts seeking to undermine the authority of the Emperor, e.g., individual assassination or collective uprising, were strictly prohibited, resolutely deterred, and severely punished (Puett 1998: 438-440). This is particularly the case with barbarian rulers, e.g., Northern Wei (386 – 534), Liao (916 – 1125), Jurchen Chin (1115 – 1231),^{iv} Yuan (1271 – 1368) and Qing (1644 – 1911)^v dynasties. For example, as alien rulers from a lesser (barbaric) culture, the Chin emperor has to walk on thin ice to come to terms with China’s high culture and Confucius officialdoms. The Juren emperors have resorted to violence and terror to bring Chinese (Han) officials to their knee, e.g., in one case eight officials were executed and 34 were banished for engaging in factional activities (Tao 1970).

In imperial China, political criminality (*zhengzhi fenzui*) was violence directed against the Emperor, inducing fear and causing “chaos” (*luan*). Emperors were fearful of secretive oppositions and unpredictable threats. Emperor of Sung, Taizhong was reported to have said:

“If there is no external threat (*waiyou*), the state must have internal trouble (*neihuan*). External threats are only at the border and can be protected

against. However those who are treacherous (*jianxie*) have no form, as internal threats, they are much to be feared! The emperor should always pay attention and be aware of this possibility” (Zhu 1994: 446).^{vi}

The author *Shiji*, Au Yangxiu, has equated external threat by barbarians as those afflicting the skins and internal attacks by the hoodlums and traitors (terrorists) as those corrupting the internal organs (*fuxin zhi huan*)⁶ (Zhu 1994: 446). Throughout the centuries, Chinese emperors have spared no effort to prevent such internal threats:

“During the *Qin* dynasty, those who committed political crimes (*zhengzi fanzui*) against the emperor was punished at the minimum with death, most of them were punished with purging the clan. According to historical account, those who engaged in “wei luan”⁷ (creating disorder) and “wei ni” (creating dissent)⁸ are often torn apart by vehicles, before death they are subjected to “five punishment,”⁹ then “yi san zu” (termination of three clan¹⁰), “mei qizong” (extermination of the ancestor), this often implicates thousands of households and tens of thousands of people. People who engaged in crimes of slandering (*feibang*) and heresy (*yaoyan*) against the emperor, must be punished with the most heavy penalty. Even those who disclosed the where about of the emperor must be severely punished with death” (Zhu 1994: 93)

Through the centuries, violence against the Emperor took many forms, e.g., from regal assassination to civil uprising to destruction of royal temples, and comes from many quarters, e.g., from deprived citizens to disaffected public to disillusioned intellectuals (Esherick 1983).

However, in rare circumstances the use of violence against the Emperor, might be

⁶ Literally, “disease in one’s vital organ, i.e., serious hidden trouble. *The Pinyin Chinese-English Dictionary* (Hong Kong: Commercial Press, 1979) 766L.

⁷ “Luan” literally means public disorder or loss of control as a state of affair, both of which implicates the emperor’s capacity and legitimacy to rule. *Hangyu Dacidian* (Shanghai: Hangyu Dacidian, 1994), Vol. 1:797R.

⁸ “Ni” liberally means contrary, here being contrary to order and regulation. *Hangyu Dacidian* (Shanghai: Hangyu Dacidian, 1994), Vol. 10:823R.

⁹ “Wu xing” are the five chief forms of punishment, in ancient China, being tattooing of the face, cutting off the nose, cutting off the feet, castration, and decapitation. *The Pinyin Chinese-English Dictionary* (Hong Kong: Commercial Press, 1979) 731R. “Wuxing” is a serious punishment not only because they are painful but also because they are humiliating to the person and loss of face to the family. In the text of <<Xiaojing. Kaizhong Mingyi” (“Filial piety. Making clear the principle in the beginning”) it is said: “Shenti fafu, shou zhi fulwu, bugan huishang, yao zhi shi ya” (“The body and its associates parts (hair and skin), is given by the parents, dare not harm, this is the beginning of filial piety.”) In essence the body is a family trust. This conception of “body politics” is to have grave implications on Chinese social control strategy and policy.

¹⁰ The three clans being the offender’s family, his mother and wife.

justified, e.g., “guan bi min fan” (people rebel as a result of oppressive officials) (Wakeman 1977). Thus, while official history might condemn individual assassins and collective violence, unofficial history often laud such acts as heroics, necessary and functional in disposing a tyrant, in venting grievances, and in doing heaven’s justice (Yen 1934). The issue of benevolence vs. malevolence “terror” was rarely discussed in official history of the time, but alive and well in Chinese culture Tiedemann 1984: 395).

As to response to political violence, as early as the Spring and Autumn (*Chunqiu* 770-475 BC) and Warring States (*Zhan guo* 475-221 BC) periods, there specialized violence suppression officials called “jin bu shi” (“violence suppression officials”). They functioned very much like our anti-terrorists units today. Recent research shows Emperors took extensive precautions to protect against assassinations. The imperial security system at the capital consisted of body guards and palace patrol. They performed protective duties much like that of the secret service today (Dray-Novoy 1993). The comprehensive *baojia* system of the Qin dynasty and the elaborate spy system during the Sung era kept the emperor well informed of any plots against outside the palace gate (Chen 1995). Finally, the extensive KMT spy system and secretive CCP *zhongyan deke* (“Special Central Bureau”) were terrorist and anti-terrorist units (Wakeman 1992).

After this brief discussion of political violent in imperial China, we need to attend to three challenging intellectual issues.

First, can “terrorism” be perpetrated by the state in China? In China, there is no such thing as state sponsored terrorism.

The right of the Emperor to use force is unlimited. From antiquity, the utility and legitimacy of the state to use violence to suppress violence – from punishment to warfare - has never been questioned, and in fact considered a duty of a sage emperor. “Moreover, if you use war to get rid of war, even war is acceptable; if you use killing to get rid of killing, even killing is acceptable; if you use punishment to get rid of (the need for) punishment, even punishing is acceptable.” (<<Shangjunshu, Huace>>) (Cheng 1988: 284).

The issue was whether the violence used was proper in usage in purpose and degree. ^{vii} It is important to note that Chinese considered state sponsored violence (or organized violence) as a continuum to be deployed in response to challenges to authority or disruption of order. Emperor and officials were cautioned against arbitrary, gratuitous, and excessive use of violence. There were no fix “cruel and unusual” idea or inflexible “an eye for an eye” rule. For example, Shangyang, putative father of legalist school, has proposed the use of heavy punishment for minor offense in order to hold off bigger harm to come.

Second, can terrorism be perpetrated by “pure” speech alone?

In imperial China, intellectuals were a privileged class. They held a lot of soft – moral, reasoning - power. The power of the pen and impact of the words were most formidable. Through out history brace intellectuals and outspoken scholars provide the only effective check and balance on the Emperor. By the same token, intellectuals were viewed with much suspicion. As a result, speech was strictly controlled and words were meticulously vetted. Qi Huangdi burned all the books, while Qing Emperors prosecuted people for speech crime. To the Emperors dissenting intellectuals with a pen were as dangerous as a terrorists with a gun (Kessler 1971).

“The court, ever so sensitive to slights and expression of hostility to Manchu rule, decided to deal harshly with offenders. The purported author, Chuang T’ing-lung, was dead, and so his father was arrested and thrown into a Peking jail, where he later died. When the case was closed in 1663, the father’s and son’s body was disinterred and mutilated, their families were bound over to Manchus as slaves, and their possessions were confiscated. A similar fate lay in store for all the scholars involved in preparing the history, the printer, and even some of the purchasers. Altogether seventy men were executed” (Kessler 1971).

Third, whether all violent challenges to state authority were deemed to be “terrorist” in nature?

In China, the Emperor ruled his empire and governed his citizens by and through the family. The family head assumes the role and function of an Emperor at home. Philip Kuhn has called this as “third realm” (Huang 1993). I have described the family as “more or less government” (Wong 1998). They amounted to the same thing: the Emperor has cooped local community to rule themselves. View this way any challenge to the head of the family is a challenge to the Emperor. Assault on or threat to the family power structure is considered every bit as serious as challenging the state authority, e.g., it is considered the ten most serious crimes.¹¹ By this logic, terrorist acts are not only those that threatened the state – Emperor but also those who intimidated the clan - family - heads. Any disobedience to parents were severely dealt with by state law, family rules and social norms, and made an absolute offense.

IV Terrorism in Communist China

The use of “terror” as a political instrumentality was never questioned by the Communist Party, nor far from its mind. Ever since the formation of the Communist Party in 1920s, CCP members were both perpetrators and recipients of political terrors. KMT used terror tactics to purge the ranks of CCP. CCP resorted to terrorism – assassination and bombing – to intimidate KMT officials and destabilize the KMT government. More recently, the cultural revolution recalls white terror of the French revolution and “strike-hard” campaign qualifies as state sponsored terrorism, in theory and practice.

According to the official and authoritative PRC “police encyclopedia,” the *Gongan baike quanshu*, counter-revolutionary crime (*fan geming zui*) is defined as: “Conduct which harmed the People’s Republic of China with the purpose of overthrowing people’s proletarian dictatorship and socialist system” (*Gongan baike quanshu* 2000: 350R). This comes close to being a terrorism.

The PRC Criminal Law (1979) provides in Article 90 that “Conduct which is

¹¹ Geoffrey MacCormack, “On the Pre-Tang Development of the Law of ‘Treason’: moufan, dani and pan,” (The three most heinous crimes, called abominable, in the Han Code were plotting rebellion (moufan), sedition (dani) and rebellion (pan). *Buxiao* (不孝 ‘lack of filial piety’) made the list of ten most abominable crime.)

<http://jalh.ku.edu/article/maccormack2005.pdf>

harmful to the People's Republic of China and done with the purpose of over-throwing the proletarian dictatorship and socialist system are all counter-revolutionary crimes." Counter-revolutionary crimes include crime involving: (1) inciting people to resist and harm the implementation of state law and order and (2) use counter-revolutionary slogans, pamphlets and other means to incite others to over-throw the proletarian dictatorship and socialist system (The PRC Criminal Law (1979) Article 102)

What constitutes counter-revolutionary crime however it not too clear, An exhaustive review of prior and existing counter-revolutionary laws, regulations, and directives does not tell us is what constitute a counter-revolutionary crime beyond the fact it refers to speech or act which is as intended or in effect was harmful to the state's political order or challenge the established government.¹²

¹² See for example "Zhongguo Renmin Zhengzhi Xieshang Huiyi Gongtong Ganlin (The Chinese People's Political Consultative Conference Common Program) (promulgated on September 29, 1949) Article 7; PRC Constitution (promulgated on September 20, 1954) Article 19; Zhengwuyuan, Zuigao Renmin Fayuan, "Guanyu Zhenya Fangeming Huodong de Zhishi" (Government Administrative Council and Supreme People's Court "Directive on the Suppression of Counter-revolutionaries") (promulgated on July 23, 1950); Zhonghua Renmin Gongheguo Zhenzhi Fangemin Tiao Li (PRC Punishment of Counter-revolutionary Regulations) (promulgated on Feb. 20, 1951), Article 2.; Zhongyang Sifabu "Guanyu Eba, Guanfei, Bufa Dizhu Ruhe Shiyong Zhenzhi Fangemin Tiaoli Pifu" (Party Central Judicial Department "Reply Regarding How to Apply Punishment of Counter-revolutionary Regulations to Local Tyrant, Habitual Criminals, and Illegal Landlord") (promulgated in 1951); Zhongyang Xiren Xiaozu "Guanyu Fangeming-fenzi he Qita Huaifenzi de Jieshi ji Chuli de Zhengce Jiexian de Zanxing Guiding" (Party Central Party of Ten Committee Temporary Regulations Regarding Policy and Limits on Explaining and Handling of Counter-revolutionary Elements and Other Bad Elements (promulgated March 3, 1956); Zhongyang Xiren Xiaozu "Guanyu Fangeming-fenzi he Qita Huaifenzi de Jieshi ji Chuli de Zhengce Jiexian de Zanxing Guiding" (Party Central Party of Ten Committee "Temporary Regulations Regarding Policy and Limits on Explaining and Handling of Counter-revolutionary Elements and Other Bad Elements") (promulgated March 3, 1956); Zhonggong Zhongyang Xiren Xiaozu Dui "Guanyu Fangeming-fenzi he Qita Huaifenzi de Jieshi ji Chuli de Zhengce Jiexian de Zanxing Guiding" de Buchong (Communist Party Central Party of Ten Committee "Supplement to Temporary Regulations Regarding Policy and Limits on Explaining and Handling of Counter-revolutionary Elements and Other Bad Elements (promulgated June 24, 1957) (Counter-revolutionary damages mean causing damage with counter-revolutionary intent and purpose); Renmin Gongan Pianweihui Guanyu Zhongyang Xiren Xiaozu "Guanyu Fangeming-fenzi he Qita Huaifenzi de Jieshi ji Chuli de Zhengce Jiexian de Zanxing Guiding" de Buchong Jieshi Zhong Yixie Wenti de Jieda (PRC Organizing Committee "Answers to Certain Questions on Supplementary Explanation Regarding Temporary Regulations Regarding Policy and Limits on Explaining and Handling of Counter-revolutionary Elements and Other Bad Elements") (promulgated 1957) (Contemporary counter-revolutionary elements means people who spread reactionary pamphlets with counter-revolutionary intent); Zhongyang Xiren Xiaozu "Guanyu Putong Fangemin Fenzi ji Qita Fandong Fenzi de Jieshi" (Committee of Ten from Party Central "Explanation Regarding Common Counter-revolutionary

A careful reading of the legal literature and case studies (*Xingshifanzui anli congshu* 1990) confirms that counter-revolutionary crimes are “intent” (in China “purpose”)¹³ more so than a “conduct”¹⁴ and “result” crime.¹⁵ Thus, for the same harmful conduct, e.g., personal or property damage, the existence of counter-revolutionary purpose (*mudi*)¹⁶ separates the distinction between crime vs. non-crime (*zui yu fei zui*)¹⁷.¹⁸

Elements and Other Reactionary Elements”) (November 1957) (Counter-revolutionary elements are people who insist upon their reactionary class viewpoint); Zhongyang Zhengfa Xiaozu “Guanyu Xinde Fangeming Fanzui Xingwei de Jiexian” (Party Central Political-legal Committee “Regarding the classification of Counter-revolutionary Elements” (1962). (People who are merely critical of the party or government policy or implementation are not counter-revolutionary.) (Zuigao Renmin Jianchayuan 1990: 269-331)

¹³ A “purpose” (*mudi*) crime is one which punishes people for motive and purpose. It is similar to common law basic intent vs. ulterior intent distinction, e.g., burglary – breaking and entering of other’s premises at night with the intent committing a felony therein.

¹⁴ A “conduct” (*xingwei*) crime is one which punishes certain conduct, irrespective of result intended, e.g., perjury.

¹⁵ A “result” (*houguo*) crime is one which punished result, e.g., murder. However, the war separating “intent” and “result” crime is not as firm and insular as it might first appear. This is so far two reasons. First, since intention cannot be judged by once action, and action is most evident with its impact and consequences. The “result” of the action speaks to the intent of the actor, both as direct as well as circumstantial evidence. Direct because one is charge with the natural consequence of ones act. Word is not more than action. Circumstantial, because how might ones intent be explained given certain action. Words speak louder than words. Second, even if one does not intent ones action, the result of the act is all the same. People are responsible of serious harm to society, a reckless type of attribution of responsibility.

¹⁶ The PRC criminal law jurisprudence does not draw a clear distinction between intent (*ytu* or *zuiyi*), purpose (*mudi*) and motive (*dongji*) in the finding of guilt and imposing of punishment. It is embraced by the term “*fanzui zhuguan*” (subjective mental condition (*xinli zhuangkuang*). Editorial Committee, *Faguan shouce* (Judges handbook) (Sangxi: Shangxi renmin chubanshe, 1995), p. 51. PRC legal scholars do draw a analytical distinction between “*fanzui mudi*” (criminal purpose) and “*fanzui donji*” in that “*dongji*” is *mudi* is precipitated by *dongji*. *Ibid.* p. 55. In common law jurisdiction, only intent is the mental state (*mens rea*) that needs to be proven. Intent is usually defined as “knowingly” and “purposely.” Motive is considered as irrelevant as a legal principle or immaterial as evidentiary proof. However, increasingly and by statue, motive is being considered as important in the Anglo-American jurisprudence, e.g., hate crime with racial animus.

¹⁷ The “*zui yu fei zui*” is an analytical, rhetorical and instructional device to highlight the main differences between one crime vs. another, especially as interpreted and applied. This is usually done by comparing two similar cases along critical dimensions, in counter-revolutionary crimes the issue of intent.

¹⁸ Editorial committee, *Zhongguo gongan baiké quanshu* (China police encyclopedia) (Jilin: Jilin Chubanshe, 1989), p. 351L. “*Fen ge ming mudi*” (counter-revolutionary

In Chinese criminal law jurisprudence, harmful conduct is used to demonstrate and prove the existence of counter-revolutionary motive (*dongji*) and purpose (*mudi*).¹⁹

For purposes of terrorism crime analysis, counter-revolutionary crime covers more and less than conventional terrorist conducts.

Counter-revolutionary crime is more than terrorist conduct. Whereas all terrorist acts are counter-revolutionary act, not all counter-revolutionary acts are terrorist act. The reason is a simple one, Counter-revolutionary crime covers violence as well as non-violent subversive acts, e.g., distribution of promotional materials supporting the overturn of CPC is certainly a non-violence counter-revolutionary offence.

However, as applied, most if not all counter-revolutionary crimes in China are covered as terrorist conduct. First, in order to prosecute under counter-revolutionary law there must be serious harm to social, political and economic order. In such cases, the conduct being prosecuted is more likely to be disruptive, threatening, violent or harmful ones.²⁰ Second, proving a counter-revolutionary crime requires the demonstration of “harmful” purpose and intent. In most cases only violent conduct is likely to be prosecuted and convicted.²¹ In fact, a comprehensive review of pertinent PRC Criminal Law provisions covering counter-revolutionary crimes show that most of them require the use of force to bring about damage to property, disruption of services, and harmful to people.

Counter-revolutionary crime is less than terrorist conduct Counter-revolutionary crime may also cover less than conventional terrorist conduct. Counter-revolutionary requires the proof of a counter-revolutionary purpose. Not all terrorist acts are perpetrated with requisite counter-revolutionary purpose. Take the case of hostage taking in order to force the PRC government to purge corruption. This is clearly a terrorist act. It is however not clear it is a counter-revolutionary crime. Thus, only SOME but not violent acts are deemed to be carried out against the state.²²

purpose or intent) is defined as: “With the purpose of overthrowing people’s proletarian dictatorship and socialist system, is an important element constituting counter-revolutionary crime, is a distinction between counter-revolutionary crime, counter-revolutionary and other crime.”

¹⁹ Editorial committee, *Zhongguo gongan baike quanshu* (China police encyclopedia) (Jilin: Jilin Chubanshe, 1989), p. 351L. “*Fen ge ming mudi*” (counter-revolutionary purpose or intent) is defined as: “We can ascertain the purpose of perpetrator can by looking at the counter-revolutionary conduct and effect in practice.”

²⁰ Editorial Committee, *Faguan shouce* (Judges handbook) (Shangxi: Shangxi renmin chubanshe, 1995), p. 75.

²¹ Editorial committee, *Zhongguo gongan baike quanshu* (China police encyclopedia) (Jinlin: Jilin Chubanshe, 1989), p. 351L. “*Fen ge ming mudi*” (counter-revolutionary purpose or intent) is defined as: “We can ascertain the purpose of perpetrator can by looking at the counter-revolutionary conduct and effect in practice.”

²² In order for one to survive this argument, one can adopt a broader and more inclusive definition of counter-revolutionary crime in arguing that anytime violence is used contrary to law in order to change state policy and practices, it is deemed to be ipso facto counter-revolution in effect. This argument stretches counter-revolutionary acts to include violent conduct seeking to change policy and practices that are themselves illegal, improper and otherwise disapproved by the PRC.

Doctrinally, the most authoritative statement on the nature and treatment of political violence – from revolution to terrorism – can be found in an essay written by Mao (Johnson 1968: 435-440): ON THE CORRECT HANDLING OF CONTRADICTIONS AMONG THE PEOPLE.^{viii} The intellectual foundation of the “on contradiction” doctrine was that of Hegel’s dialectics.^{ix} The doctrine has been applied to justified government draconian anti-crime measures at the expense of human rights concerns (Clarke and Feinerman 1995)

In “On Contradiction” Mao taught that there are two kinds of contradictions (conflicts), one within the ranks of the people and the other between the people and the class enemy. The former being non-antagonistic (and personal) can be resolved peacefully, i.e., through education and with punishment, the later as antagonist (structural) conflicts cannot be resolved amicably without resort to force, i.e., war. Terrorism belongs to the second type of contradiction.

V

Conclusion

This research began with an observation that the effort to treat terrorism as a uniform set of human experiences and a universal conceptual category ill serves the purpose of academic research and understanding terrorism (Reimann 2002).^x In order to understand terrorism in China on its own terms there is a need to investigate “terrorism” (like activities) in local context and with indigenous perspective; in practical terms, how “terrorism” originated and developed in (imperial) China? This entails the study of history, culture and above all else philosophy and in the case of China, Confucius ideas and ideal; specifically, how China viewed order, violence and control?

This investigation shows that Western concept of terrorism was not able to adequately capture the essence and characteristics of “terrorism” like “political violence” in historical China. The Western idea of “terrorism” included more, e.g., state terrorism, and less, e.g., clan violence. It also accentuates some aspects, e.g., terror on innocence, at the expense of others, e.g. terror to family.

Some of the inadequacies of conventional terrorism label in capturing China experience are summarized below:

First, as an agriculture society China sought order, stability and continuity, and above all else harmony (Wright 1953: 31-34). Thus, Confucius ethics taught that conflicts are to be avoided and violence, condemned (Wall and Blum 1999). The former is a precursor of the second. The second is a consequence of the first. Both have a tendency of disturbing established social relationships (“wunlun”)²³ and if left unchecked rupture (“luan”) pre-ordained cosmic order (“dao”), which take years to established and still more time to rehabilitate.

Thousands of years of Confucius education was successful in fostering a

²³ The five relationships (“wulun”) are ruler-subject, father-son, husband-wife, elder brother-younger brother, and friend-friend.

culture, creating a custom and developing a personality that equate conflicts as “bad” and violence as “evil”, at a cognitive and emotive level. Thus, people were taught to avoid conflicts at all cost, even if they were in the right. Violence was found to be objectionable, however it was manifested (threat vs. force), whoever it was directed against (emperor, officials, parents, peers); whatever the impact (physical injury vs. psychological harm). There were few attempts to discriminate one type of conflict and violence from another. There was very effort to avoid conflict and suppress violence, individually, collectively and nationally. The focus is on maintaining peace and order, not discriminating causes (of disorder), e.g., for judging the state of “cosmic order” (Hsu 1970) and entitlement to “mandate of heaven”. Thus, Emperor and officials were equally to be blamed for natural disasters as with human upheaval. In the ultimate analysis, terrorism is not the focus of Emperor’s concern, disturbance of the peace.

Second, like all other countries, East and West, past and present, political violence, of which “terrorism” is a species, did exist in China and in abundance,^{xi} e.g., assassination, banditry (Tiedemann 1982), secret society activities (Chesneaux 1971). and peasant rebellion (Perry, E. (1980). These violent acts were found to be particularly odious because they were secretly organized and openly challenging the emperor’s authority and legitimacy. To a Confucius scholar, they were acts of disloyalty and signs of chaos (“luan”); both were affronts to the Emperor’s mandate to rule. Here again, it matters not how political violence was perpetrated, e.g., slandering vs. assassinating vs. rebellion. What matters was that the Emperor’s authority must be re-established, “luan” quelled and mandate from heaven restored. The act that is punished is not violent per se, but the acts of insubordination and disloyalty, which challenges not only the Emperor’s safety but the people’s order of things.

Third, terrorism is the instrumental use and strategic employment of threat, violence or terror to achieve political – regime change or policy reform – objectives. Terrorism, as instrumental use of violence, has no place in Chinese ethical and jurisprudential thought. (1) The instrumental use of violence is frowned upon, thus treated as barbaric and animalistic, i.e., Chinese ethics has no principles of end justifying means.²⁴ The use of violence means to achieve political ends, make the perpetrator as morally reprehensible as the oppressive government. (2) The strategic use of violence will likely fail. The way to reform government and change policy is through adherence to Confucius ethic and with the use of moral reasoning. It starts with appealing to higher moral principles and ends with setting a good personal example. Fighting violence with violence is not

²⁴ One possibility is to argue that Confucianism is not a set of ethic principles as much as it is a set of rules for practical reason to deal with life contingencies. *Zhang Rulun*,” Chapter VIII. Is an Ethics of Economic Activity Possible?” In Yu Xuanmeng, Lu Xiaohe, Liu Fangtong, Zhang Rulun & Georges Enderle (Eds.) ECONOMIC ETHICS and CHINESE CULTURE - Chinese Philosophical Studies, XIV (“For Confucius, *jen* is an all-encompassing ethical ideal... It is an existential goal which one must attempt to achieve for oneself through one’s own self-cultivation. All the “worldly goods” are totally subordinate to the higher goal of *jen*. But this does not mean that people can do anything to achieve this goal.”) <http://www.crvp.org/book/Series03/III-14/contents.htm>

recommended, and not likely to succeed or prevail. People were taught not to bend to raw power but succumb to sound reasons. Here again, people are punished not for violence but its instrumental use; more broadly abdication of reason and forfeiture of morality. When rationality and morality is gone, a country is not governable and communal living is not possible.

Fourth, one of the characteristics of terrorism is the indiscriminate killing of innocent people to promote fear and terror. This would not happen in imperial China for two reasons, one philosophical, the other practical. (1) Philosophically, killing indiscriminately or terrorizing innocent people was *ipso facto* not reasonable and just (*hu he qing li*), however noble the cause, i.e., against “qing” and “li” in China (Fan 1992). (2) Practically, China was a non-democratic (autocratic) country (Wittfogel 1970). There was no point in attacking civilians, since they have no say over the conduct of the Emperor. Nor would the emperor yield in the face of such terrorizing acts, for three reasons. It is morally wrong to negotiate on matters of principle. It is morally wrong for the learned and educated (“zhunzi”) to make concession to the uneducated (“xiaoren”).²⁵ It is also unimaginable for the emperor – parent to negotiate with citizens – subordinate.

Fifth, there was no state terrorism in paternalistic China (Ling 1994). In accordance with Confucius teachings the state is build upon a family model.^{xiii} The relationship between emperor/officers and citizens/charges was, and still is, that exist between father and sons. Sons have to show respect and demonstrate loyalty to familial authority figures, from parents to officials to emperor. The family authority figures have a moral duty to take care of the best interest of the children, e.g., food, shelter and education. Thus when citizens challenge the state – from dissenting to resisting to rebelling – the state has the authority and duty to react in a most violent manner. This is not considered as state terrorism. This is viewed as state performing its moral duty. If the citizens misbehaved they can hardly blame the state for acting “violently” against their misconduct, seeking a return to the right path or “dao”. The whole purpose of suppressing violence, terrorism included, is to fortify an authority structure passed down by Confucius. Terrorism is not the objective on control, disruption of “dao” is.

Sixth, the concept of terrorism was also not able to make allowance for good “political violence”. The only proper course of act and effective measure by the oppressed people against the abusive state was to engage in righteous political resistance, from assassination to rebellion, in a last ditch effort to return the country to the heavenly way. The aim was never to overthrow the Emperor but to return the throne to proper “heavenly” authority. View in this light, the “terrorism” act that challenges the Emperor resulting is brought on by the Emperor. In order for such resistance be recognized as legitimate, the resisters must be righteous in its cause and proper with means. Conversely, violence used to press the rulers to conform to the cosmic order and return to heavenly (benevolent) rule is deemed as understandable, justifiable and necessary Crowell

²⁵ The gentleman and based people lived in two distinctive world, separated by a great divide. The gentleman is regulated by principles of “li” and “ren”. The based people are moved by consideration of “li” (utility) and compelled by punishment (“xing”).

1983). Years later, Mao has justified such grassroots - peasant rebellions as examples of class wars; present day freedom fighters not terrorists. In the ultimate analysis, the use of violence for or against the Emperor in China must be evaluated against a fix moral universe and universal ethical percepts, espoused by Confucian and enshrined within Confucian teachings.

To conclude and re-iterate, since the beginning of the Republic (1949 to 1959) and up through the economic reform period (1979 – now), the pre-occupation of the communist leadership has been with assuring security (to defend “mandate from heaven”) and achieving stability (to maintain “cosmic order”). Conceptually, terrorism, as we come to know it in the West, did not gain a foothold in the leadership’s thinking.

“Terrorism” as threats to political security and social stability were treated just like any other destabilizing acts, i.e., treated as contradictions between the people and enemy of the state. Conversely, all political dissent and social unrest having the potential to disrupt Party rule is considered as “terrorists” like. As observed, this indiscriminate way of thinking about political-social “violence” is traceable to China’s past where the emperor ruled absolutely and resolutely with mandate from heaven in maintaining a cosmic order, against ALL challenges.

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