

## **‘Cause’ in the Terrorism Act 2000**

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This paper explains the notion of ‘cause’ in the Terrorism Act 2000. This under-analysed term occurs in the third limb of the UK terrorism definition, which requires a use or threat of action to be “...made for the purpose of advancing a political, religious, racial or ideological cause”<sup>1</sup>. Our principal point is that cause is different from objective; that the purpose of advancing a cause will apply to a wider range of intentional conduct than conduct aiming at a particular objective; but that, conversely, the notion of cause carries a sense of grander purpose than is necessarily found in objectives.

Although our main purpose in this paper is to explain the term ‘cause’ rather than to define it, we include a possible definition in conclusion. A separate matter, which we will explore in a later paper, is accounting for the sense in which a cause may be political, religious, racial or ideological; and to identify those causes that may be said to be outside the terrorism definition.

We take objective, used here as a point of contrast with ‘cause’, to mean one of the ways in which Kant used the term ‘end’. Kant uses it in two quite different ways, one of which is defined (by Thomas Pogge) as follows: ‘ends are what we more commonly call aims or goals: namely states of affairs or events that one has in mind while acting and tries to attain through one’s conduct’.<sup>2</sup> In this paper, we consider that ends, aims, objectives or targets can be used interchangeably.

The first basis for arguing that causes are wider than objectives is the observation that people can subscribe to the same cause but have different objectives. It would be entirely possible for two individuals to subscribe to the Palestinian cause but take different positions on whether a two-state or one-state solution was ultimately desirable. Causes can generate different, even incompatible, objectives, depending on how the cause is interpreted.

Secondly, in our view causes imply a grander purpose in a way that mere objectives do not. Objectives tend to be more concrete or specific and less lofty than causes. We consider this facet in the context of shareability and commitment.

Thirdly, a cause may invoke an ideal state of affairs, such as the abolition of poverty worldwide, which is not achievable as an objective in any realistic sense. It is possible that a cause, particularly a religious cause, may have no identifiable objective at all. This may explain why the term “cause” was preferred to the term “ends” that was found in prior UK legislation<sup>3</sup>: with the widening of motivations to include religious, ideological and (later on) racial, it becomes harder to point to ends in the sense of objectives<sup>4</sup>.

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<sup>1</sup> Section 1(1)(c).

<sup>2</sup> ‘Kant on Ends and the Meaning of Life’, in A. Reath, B. Herman, and C. Korsgaard (eds.), *Reclaiming the History of Ethics: Essays for John Rawls* (Cambridge: Cambridge University Press, 2009), p. 361.

<sup>3</sup> For example, Prevention of Terrorism (Temporary Provisions) Act 1989, section 20(1)

<sup>4</sup> The government’s 1998 consultation paper prior to the Terrorism Bill proposed a definition based on serious violence “for political, religious or ideological ends” (Legislation Against Terrorism, Cm 4178, see para 3.17). We have been unable to find any explanation for the change in the language of the Bill to advancing a “cause”

Finally, a cause may be “advanced” (a term that appears in the statutory definition) in a way that appears to bear no causal relationship to a final goal. As Dame Louise Richardson has noted, if we ask whether the 7/7 bombers honestly thought that by their actions, they were really going to hasten the return of the caliphate, the answer must be no.<sup>5</sup> Their cause was the return of the caliphate but their objective (in Pogge’s terms, what they were trying to achieve through their conduct) was to kill users of London Transport.

It follows that a single “cause” may encompass no, one or more than one objective; any objective need not be realistically achievable; and the advancement of the cause may be secured in ways that bear no relationship to any objectives held. On our argument, “cause” is wider than “objective” and the class of potential adherents of a cause, who have the potential to qualify as terrorists under the UK definition, is wider than the class of potential adherents to an objective.

However, in our view it would be a mistake to consider “cause” merely as a wider form of objective, especially as the term occurs in the statutory definition of a use or threat of action “made for the purpose of advancing a political, religious, racial or ideological cause”. We identify below what we consider to be necessary conditions for a matter to qualify as a cause under the Terrorism Act.

- A. **A cause must go beyond the merely personal.** One sense in which a cause goes beyond the merely personal is that the realization or attainment of a cause (e.g. female suffrage) impacts a substantial number of people. The realization of an objective needn’t do so. Whilst as a matter of logic we cannot rule out purely personal causes (e.g. ‘Everything I do is in the cause of becoming Prime Minister’), such so-called personal causes are better described as personal *ambitions*.
- B. **Causes must be shareable.** A cause can be novel or even private in the sense that only one person has it (like the Unabomber) but it must be communicable to other people. By this we mean not simply that a cause can be expressed in language but that it might conceivably be adopted by another person as a result of being shared. If a cause is to exist in any meaningful sense it must be capable of being advanced *collectively*.
- C. **People attach special significance to their causes.** Causes have a grander purpose than mere objectives. To understand the special significance of causes, we need to take account of the fact that:
- D. **Causes are rooted in ideals and/ or values.** When one thinks about causes like female suffrage or the abolition of slavery, it is clear that people attached special importance to these causes because they had ideals (of democracy and freedom) from which these causes flowed. Nationalist causes are underpinned by ideals (e.g. the ideal of national self-determination) and even perverse causes (for example, the cause of Islamic State) appear to express certain values and visions as to how humans should live. It is difficult to think of a cause that isn’t underpinned by an ideal or vision.

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and indeed, debates on the Terrorism Bill (for example, Hansard (HL) Vol 611 Col 1428, 1430, Lord Bassam of Brighton, moving the Bill at second reading), do not distinguish clearly between “ends” and “causes”.

<sup>5</sup> *What Terrorists Want: Understanding the Enemy, Containing the Threat* (New York: Random House, 2006), p. 80.

- E. **A cause is something for which people who are committed to it are prepared to pay a price.** It is natural to talk about people dying for a cause but not about people dying for an aspiration or an objective. Commitment to a cause is a distinctive form of commitment that is different from mere acceptance of an objective. Not every person advancing a cause is necessarily committed to it (for example, they may be acting on a mercenary motive) but to qualify as a cause there must be at least one or more persons who are committed to it and willing to pay a price.
- F. **Causes are action-guiding for those who subscribe to them and sources of motivation.** Causes motivate and guide actions that have the purpose of advancing them and they shape the choice of objectives. To put it another way, causes are high level normative commitments (commitments to what ought to be the case) that generate action and structure the conduct of that action.

Explained in this way, the term “cause” may justify why terrorist violence is a special case compared to other types of serious violence. If a person is willing to use serious violence in advancement of a cause there is the prospect that others who come to share the same cause will enact similar violence on other members of the public, and so on. This is true whether the violence brings about a particular objective or simply advances the cause in a wider sense (for example, by drawing attention to it). This is different from gangland violence which, for all its horror, has a much narrower set of perpetrators and targets.

Determining whether a person is acting to advance a cause depends on the facts, but a connection to an existing terrorist group or the presence of a manifesto is likely to be strong evidence. It is possible to infer a cause from how someone acts and behaves<sup>6</sup>. When people don’t describe their causes as causes, the challenge is to work out whether their words and deeds are indicative of the special type of commitment that amounts to commitment to a cause.

Finally, we suggest the following by way of definition of cause:

‘A cause is a shareable vision, promoting commitment and collective action towards a desired outcome or state of affairs.’

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<sup>6</sup> See for example, R v Salih Khater, Sentencing remarks of McGowan J. (Central Criminal Court, 14.10.19), para 13.