

Terrorism or War, what makes up the difference ?

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Underwriting perspective - reasons for war to be distinguished from terrorism

- War can have unlimited geographical dimensions
- Amount of damage caused by war usually catastrophic compared to one caused by “conventional” terrorism attack
- War damages often unaffordable
- Premium calculation for war difficult

This led to introduction of war risks exclusion in exposed covers (property damage)

Coherence of terrorism exclusions in property policies and assertive coverage of terrorism in insuring clauses of specific terrorism insurance extensions

Insurance: difference between war and terrorism

War

Generally not defined in policy,
but court decisions

- contention between states
- with armed forces
- no formal declaration needed

Terrorism

War related risks

- Hostilities: acts by persons acting as agents of sovereign powers, presupposes a state of war
- Warlike operations: they include hostilities but have a wider meaning including operations of such general kind or character as belligerents have recourse to in war (e.g. army), but do not require a state of war



Claims require coverage analysis based on specific circumstances at moment when loss occurs

Recommended war risks exclusion (political risks)

Loss or damage directly or indirectly caused, or occasioned by, happening through or in consequence of war, invasion, act of enemies, hostilities, warlike operation, civil war, mutiny, civil commotion assuming the proportions of or amounting to popular rising, military rising, insurrection, rebellion, revolution military or usurped power, martial law , confiscation or requisition, nationalization, or destruction of or damage of property by or under the order of any government or public or local authority.

Insurance: difference between war and terrorism

War

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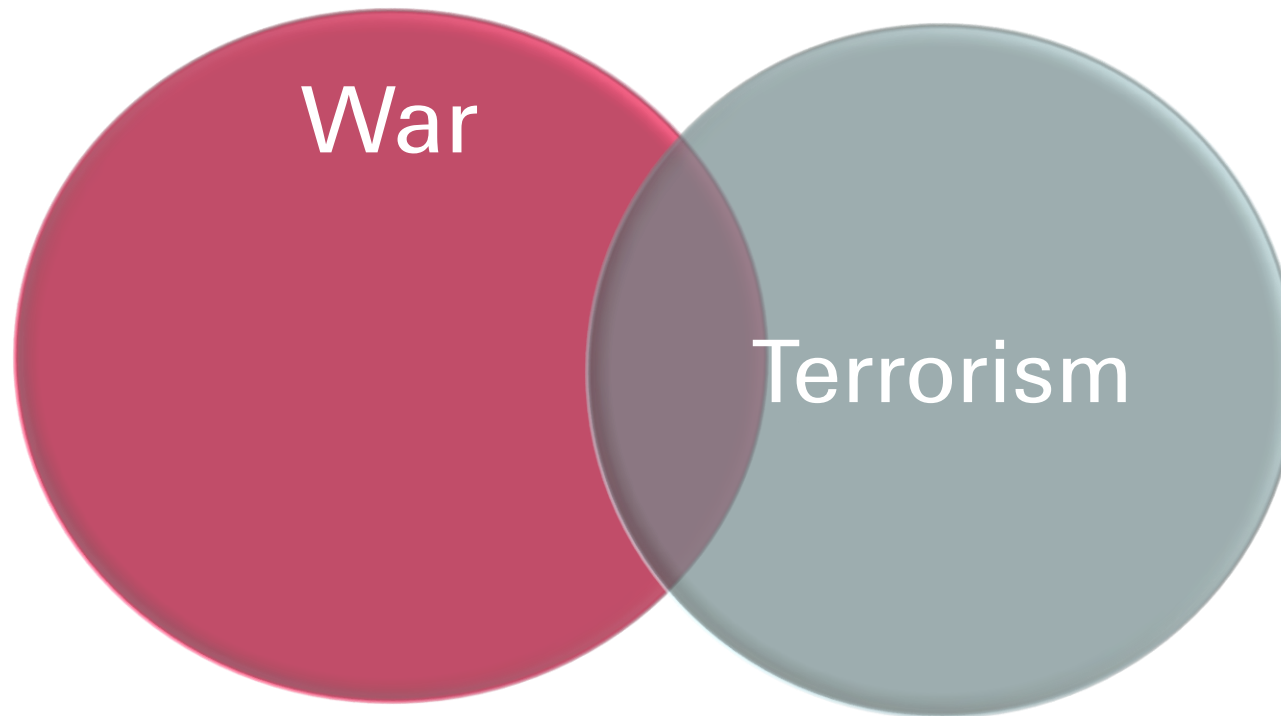
- contention between states with armed forces
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Terrorism

Usually defined in policy

- an act or series of acts committed by a person or group of persons
- can include use or threat of force or violence
- perpetrator can act on behalf of any organisation (or government)
- committed for political, religious, or ideological purposes
- want to influence any government and/or put public in fear

Reality in claims world: Is it war or is it terrorism?



Applicability of the war exclusion to ISIS attacks

Paris terror attacks: Hollande says Isis atrocity was 'act of war'

President says France will defend itself after at least 128 people killed in series of gun and bomb attacks across Paris

“prepared, organised and planned from outside the country by Islamic State...”

Applicability of war exclusion to ISIS attack, cont.

- Challenge statements made in media and by representatives of governments (insurance or legal terminology)
- Contrary to terrorism, generally no definition of war in policy
- General understanding and as per court decisions



- contention between states with armed forces
- no formal declaration needed



Requirements for a state

Generally



Space with permanent population

Yes (?)



Defined territory with government maintaining effective control

No (?)

Requirements for a state, cont.

Generally

Met by ISIS (2014-2017) ?



International
recognition
by other
countries

No

Conclusion: Although ISIS has called itself “Islamic State”, it does not fulfil all the requirements for a state or a sovereign. War exclusion for attacks in Europe not applicable.

Cyberattacks – challenges in respect of text of exclusions

Requirement of bodily injury or property damage



Burden of proving who did it (technical issue)

Definitions of cyber warfare, like “massively coordinated digital assault on a government by another, or by a large group of citizens” not coherent with insurance (war; nations and armed forces)

Conclusions

- Delimitation as per “traditional” understanding; what is intended to be covered under specific terrorism extensions cannot be war
- Potential threat of cyberterrorism and because magnitude of cyberattack (state-sponsored) could be enormous, it is indicated that terrorism and war risks exclusions should be maintained
- Revision to existing exclusion wordings needed for cyber ?

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