

AN INTERNATIONAL PERSPECTIVE ON TERRORISM

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I. INTRODUCTION

It is a great honor for me to address such a distinguished gathering on a topic that has growing importance for world politics and international law.¹

The catastrophic attacks of terrorists in Russian cities Kaspjisk, Bujnask, Moscow, and Volgodonsk in 1999, and in New York and Washington, D.C., in 2001, as well as ensuing events, “culminating in the victory of the antiterrorist coalition over Taliban in Afghanistan”—they changed the world and “gave hope for the creation of a new, [free and fair] world order.”²

In such a world order an alliance of the most powerful [democratic] states, analogous to the Concert of Nations of the XIX century, would jointly fight international terrorism, prevent its access to the weapons of mass destruction . . . and its delivery means (foremost ballistic and cruise missiles), and would also cope with the sources fuelling terrorism [all around the world]: local ethnic and religious conflicts; massive poverty, stark inequality and oppression in many regions of the world; problems of illegal migration and millions of refugees; international drugs and arms traffic; transborder organized crime and huge money laundering etc. In this world civilized nations would resolve by agree-

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1. Presentation, *In the Age of Terrorism . . . Where Should Attorneys Stand?* (Stetson U. College of L., Tampa L. Ctr., Tampa, Fla., Jan. 2005).

2. Alexei Arbatov, *Super Terrorism—Implications for a New Common Security Strategy*, http://www.auditorium.ru/v/index.php?a=vconf&c=getForm&r=thesisDesc&CounterThesis=1&id_thesis=257&PHPSESSID=ab8518d9fcdc8051c927931411f417bd (last accessed Mar. 28, 2006).

ments disputes among themselves and conduct joint sanctions, intelligence activities, special operations and, if need be, military actions against terrorists and regimes, protecting and covering them.³

It is popular to speak about the radical transformation of international relations' essence since the end of the Cold War. There is no conflict of superpowers anymore. The United States and Russia are not competing for influence in Europe, the Middle East, and Third World countries. But this new era of cooperation and stability did not emerge. Quite the opposite—the new global threat of international terrorism took the place of superpower conflict as the main defining factor of global and regional politics all over the world.

Never before acts of terror had inflicted so enormous casualties and destruction, so huge human, economic, political and moral damage, multiplied by [live] mass media broadcasts. By the choice of targets and means of attack it is hard to think of something more damaging without employing weapons of mass destruction. In a sense it's possible to consider the recent [terrorist] attacks in [United States, Russia, Spain, etc.] if not as a [weapons of mass destruction strikes], then as at least as an action of mass destruction of civilians and property. This has indeed signified a new era of international terrorism, making its next step—an employment of real [weapons of mass destruction] to overshadow even the tragedy of September 11th and to threaten the very national security of a target-state.⁴

Research results of a number of scholars clearly demonstrate that such phenomenon as “international terrorism” or “anti-terrorist coalition” are not totally new for world politics. It is better to speak about the new form as an already existing reality that emerged well before events in 1999 and 2001. Processes, which in the Cold War era had names of “revolutionary-liberation movements,” “North-South Conflict,” or “struggle between fundamentalism, totalitarianism and democracy,” since September 11th have gotten new names and have been integrated into realities of

3. *Id.*

4. *Id.*

the modern world. But in a globalized world, these processes are becoming much more dangerous than ever before due to the possibility of nuclear, chemical, and biological terrorism. This threat is hypothetical at this moment, but the international community should cooperate much closer than before in order to provide security for industrial and social infrastructures, wider and more transparent cooperation in frameworks of the International Atomic Energy Agency (IAEA), and creation of effective forms of export control.

The first measures to fight terrorism in the international arena were made in the 1970s. The measures addressed cooperation between states in dealing with hijacking of aircraft,⁵ sabotage of aircraft,⁶ taking of hostages,⁷ violent offences onboard aircraft,⁸ and crimes against certain protected persons.⁹ In 1972, the General Assembly of the United Nations started discussions on the cross-border threat of terrorism. At that time, it was a very sharp political issue that divided all countries of the world into two major camps. Due to that split, discussion in the UN continued on for many years, but the discussion was absolutely fruitless for the first twenty years. The main obstacle to a positive discussion originated from attempts of United States- and Russia-led coalitions to justify terrorism by presenting it as a “movement for national liberation,” or a “North-South conflict,” and the ideological differences between socialist and capitalist countries.

The changes became possible with the end of the Cold War, and disintegration of the USSR and socialist system in Eastern Europe. The UN General Assembly adopted the following point in the agenda of its 1992 Session: “On measures for liquidation of international terrorism.” In the last ten years, the progress in the

5. *Convention for the Suppression of Unlawful Seizure of Aircraft* (Dec. 16, 1970), http://www.unodc.org/unodc/terrorism_convention_aircraft_seizure.html.

6. *Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation* (Sept. 23, 1971), http://www.unodc.org/unodc/terrorism_convention_civil_aviation.html.

7. *International Convention against the Taking Hostages* (Dec. 18, 1979), http://www.unodc.org/unodc/terrorism_convention_hostages.html.

8. *Convention on Offences and Certain Other Acts Committed on Board Aircraft* (Sept. 14, 1963), http://www.unodc.org/unodc/terrorism_convention_aircraft.html.

9. *Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons* (Dec. 14, 1973), http://www.unodc.org/unodc/terrorism_convention_protected_persons.html.

abovementioned field has not been fantastic, but there were several important developments in this sphere. They include twelve international conventions, some of them dealing with complex and sensitive issue of financing of international terrorism. International terrorism was recognized as a very serious crime that was of course a threat to peace and security, independent from officially proclaimed aims of the terrorist movement. The UN Security Council started to utilize sanctions, envisaged by Chapter VII of the UN Charter, against states (Libya) and military groups controlling the territory of sovereign countries (Taliban Movement in Afghanistan).

But the tragic events of September 11th clearly demonstrated that there were not enough actions implemented prior to that day in the United States, as well as in other countries of the world. Since September 2001, the process of development of antiterrorism legislation has been accelerated on both national and international levels. The UN finally was able to overcome differences in approaches to terrorism. Even such Muslim countries as Pakistan, Iran, and Saudi Arabia joined the international antiterrorist coalition, led by the United States, NATO countries, and the Russian Federation. The most well-known result of this change in UN activities is the adoption of Resolution 1373 on September 28, 2001, which became the cornerstone of the UN's counterterrorism effort. It also represents a departure for that institution. Adopted under Chapter VII, the Resolution declared that international terrorism is a threat to "international peace and security" and imposes binding obligations on all UN member states. Some mistakenly think the Resolution is mainly directed at the financing of terrorism. The Resolution does address this crucial area, but it also requires or urges states to take other steps against terrorists, their organizations, and supporters—"for example, to update laws and to bring terrorists to justice, improve border security and control traffic in arms, cooperate and exchange information with other States concerning terrorists and provide judicial assistance to other States in criminal proceedings"¹⁰ related to terrorism.

10. H.E. Tuiloma Neroni Slade, Address, *Law Reform Potential in the Pacific Area* 10 (Australasian L. Reform Agencies Conf., Wellington, N.Z., Apr. 13–16, 2004) (available at www.lawcom.govt.nz/UploadFiles/SpeechPaper/83e0990a-613d-4cb2-af04-42ff80427336/Session%201%20-%20Pacific%20-%20Slade.pdf).

“The [R]esolution established a plenary committee of the Council, Counter-Terrorism Committee, to monitor implementation of the resolution”¹¹ and called on all states to report on their compliance with it, initially within ninety days and thereafter according to a time-table to be proposed by the Committee.

In the last few years, political debates have concentrated on issues related to terrorism as a threat to the State and, more generally, international security. Fighting against terrorists and their supporters served as a partial justification for military operations conducted by the United States . . . and its allies against Iraq, the hard policy of Israel in the occupied Palestinian territories, the use of force by the Yugoslavian army in Kosovo, military operations carried out by the Russian Federal Forces in Chechnya, . . . the “war on terrorism” declared by the [United States] and supported by the . . . UN after the attack of hijackers on New York and Washington on September 11, 2001.¹²

The terrorist movement[s both in Chechnya and Iraq have] changed radically in the past few years. Initially, it developed under the slogan of “a fight for freedom” which attracted the local population. But gradually these goals were abandoned; at the same time, it became clear that everything that could be destroyed—production, education, healthcare, human and civil rights—was destroyed and the people were consistently pushed into degeneration. Consequently, the social support base of the bandits declined.¹³

And now they are changing slogans, especially in Chechnya. The aim is to make “the Chechen conflict an ideologically, financially and organizationally international problem. It is merging with the global war waged against the Euro-Atlantic civilisa-

11. David Dyzenhaus, Program, *Emerging from Self-Incurred Immaturity* 7 (NYU L. Sch., N.Y.C., N.Y., Feb. 9, 2004) (available at http://www.law.nyu.edu/kingsbury/spring04/globalization/dyzenhaus_020904.pdf).

12. Ivan V. Gololobov, “Terrorism”: *The Present Indefinite Sense in Contemporary Political Language*, www.auditorium.ru/conf/conf_fulltext/gololob.pdf (last accessed Mar. 28, 2006).

13. Alexander Sharavin, *Terrorism in Southern Russia and the Terrorist International*, <http://www.cdi.org/russia/Johnson/8356-12.cfm> (Sept. 7, 2004).

tion.”¹⁴ In other words, it is not just the area of conflict that is changing—the quality of conflict is changing as well.

II. INTERNATIONAL TERRORISM AND THREAT AFTER SEPTEMBER 11TH

Terrorism generated by the conflict in Iraq might have been overshadowed by a stronger and more massive form of resistance—an uprising against the occupying forces that has gone beyond both terrorism and guerrilla warfare—but remains a long-term strategy problem whose potential negative regional and international ramifications may well exceed those of Afghanistan.

. . .

One of the main sources of instability and a cause of various forms of violence in Iraq, including terrorism, has been the coalition-sponsored government's lack of legitimacy, coupled with disagreements over the type and composition of the future governing arrangement as well as widespread popular skepticism about its viability. In this context, terrorism has not only been used as a powerful mechanism of internal destabilization, demonstrating the inability of occupying forces and the pro-U.S. Iraqi administration to provide elementary security, but also has become integrated into the inter- and intra-community struggle.¹⁵

The key to anti-terrorism in Iraq lies in the formation of functional state institutions that will enjoy both local legitimacy and broader international, particularly UN, recognition.

We are now witnessing debates about the relationship between the existing importance of sovereignty and the growing role of supranational values.¹⁶ The resolution of this debate is likely to

14. *Id.*

15. Ekaterina Stepanova, *The Challenge of Terrorism in Post-Saddam Iraq: A View from Russia* 1, 2 (Ctr. for Strategic & Intl. Stud., Policy Memo. No. 325, Apr. 2004) (available at http://www.csis.org/media/csis/pubs/pm_0325.pdf).

16. The thoughts in the following paragraph were also published in another work by the Author. Stanislav L. Tkachenko, Presentation, *Military Conflict and Its Consequences: Lessons of Kosovo, Afghanistan and Iraq for International Community* 3 (50th Gen. Ass. of A. Treaty Assoc., Ministry of Int., Italy, Feb. 12, 2004) (available at www.comitatoatlantico.it/ATA50/discorsi/tkachenko.pdf).

shape the future role of the UN, as well as influence the attitude of the most powerful sovereign states as to the relationship between international law, generally, and the use of force as an instrument of foreign policy, in particular. The present context of the debate regarding the interplay between sovereign discretion on matters of force and UN authority was framed in the late 1990s around the topic of humanitarian intervention, especially in relation to the Kosovo War. The Independent International Commission on Kosovo concluded in 2002 that the intervention in Kosovo was “illegal, but legitimate.”¹⁷ The legality/legitimacy gap, however, was recognized to be unacceptable, eroding the authority of international law over time, and the International Commission strongly recommended that it be closed at the earliest possible time by UN initiative.

Current Russian interest is based on the need to prevent Iraq from becoming a new source of terrorism and Islamic extremism.

III. RUSSIA AND INTERNATIONAL TERRORISM

In Vladimir Putin’s view, September 11th provided a common enemy for United States and Russia—Islamic extremist terrorism—threatening both the United States and Russia and the entire civilized world. Thus, a new opportunity was created once and for all to bury the legacies of the era of Soviet-American confrontation, and to develop a partnership with Western nations that could surely benefit both countries’ agendas.

Russia has been confronted for a decade with the challenge of terrorism generated by an armed conflict on its own territory and is concerned about terrorist threats to its Commonwealth of Independent States (CIS) neighbors, particularly the Central Asian states, another [area] of Islamic terrorism located not far from its own southern borders and emerging as a new potential trigger that could at any time re-activate the southern arc of instability. . . . [P]roblems created by the U.S. intervention and occupation of Iraq are of a long-term nature and are not likely to be solved effectively by the coalition itself. Sooner or later, these problems

17. Indep. Intl. Commn. on Kosovo, *The Kosovo Report: Conflict, International Response, Lessons Learned* 185–198 (Oxford U. Press 2001).

will have to be addressed by the broader international community in cooperation with an Iraqi postwar government.¹⁸

According to the Russian official doctrine, terrorists aim at impairing state sovereignty, constitutional order, and internal and international stability. The audience that appears to be directly affected by the terrorists' use of violence is strictly limited within the borders of that state—nationals of a state and visitors “recognized” by the concept of sovereignty as the subjects of the latter. It is exactly this “sovereignty-friendly” identification of terrorists' victims that caused President Putin to underline that national belonging of hostages and civilians from the “freedom fighters.”

“Many Russians have blamed Islam for the rise of terrorism. But the relationship between Islam and violence is much more complicated. . . .”¹⁹ For example, Russian leaders of terrorists, like Shamil Basayev and Aslan Maskhadov, have never had great knowledge of Islam. Nevertheless,

these people claim to represent Islam and to teach people what they should be doing as good Muslims. The problem is not so much in these self-proclaimed preachers, as in the fact that certain Muslims follow them. Moreover, opportunists emerge among the professional clerics, the scholars, who also become followers of these extremists and terrorists. Saudi Arabia's Wahabi ulema (community of legal scholars), for example, have issued fatwas (legal declaration made by religious legal experts) encouraging Al Qaeda to spread the so-called shahid movement in Russia.²⁰

Russia's situation is very different.

Russia was confronted with Al Qaeda before anyone else. In his recent “Address to the American People” just before the United States elections, Osama bin Laden specifically mentioned Russia, affirming that “we and our mujahedin have bled Russia dry through 10 years of war.” In other words,

18. Stepanova, *supra* n. 15, at 3.

19. *A Negative Link to Islam: A Scholar on Islam Says the Koran and Suicide Bombers Don't Mix* (Interview with Alexander Ignatenko), <http://www.cdi.org/russia/Johnson/8483-12.cfm> (Dec. 3, 2004).

20. *Id.*

they have been fighting since 1994, [simultaneously with the beginning of the First War in Chechnya].²¹

Currently the Russian Security Council is working on a new Concept of National Security, trying to modernize a previous version of the Concept signed by President Putin in January 2000. The main change is the growing threat of terrorism and the need to guarantee territorial integrity of the Russian Federation. According to President Putin, "Fight against terrorism is nothing but fight for the unity of Russia."²²

Having outlined Russian domestic policy for battling terrorism after Beslan, Russian leadership has launched a multi-pronged foreign policy information campaign that "combin[ed] sticks and carrots to secure the support . . . [of] the international community in . . . its efforts to cut financial and political support [for terrorists] in the North Caucasus."²³

An important area of criticism of President Putin has to do with the new information policy. "[T]errorists [in Russia] rely on mass media to expand the psychological impact of their attacks. Putin called on journalists to become tools in the fight against terror."²⁴ Drawbacks of the struggle against terrorism in Russia are rooted in the corruption and lack of professionalism of the law enforcement and security structures and the absence of legislation for such struggle.

IV. WAR IN CHECHNYA AND INTERNATIONAL TERRORISM

It is possible to speak about Russia's growing experience in anti-terrorism, particularly in dealing with complex terrorism as a mix of domestic, conflict-generated resistance, and international influences and connections.

Both the involvement of Russian troops in Chechnya and the United States military operation in Iraq are, in fact, a military affair, with elements of a large-scale counterinsurgency campaign.

21. *Id.*

22. *Putin: Fight against Terrorism Is Fight for National Unity*, <http://www.cdi.org/russia/Johnson/8386-5.cfm> (2005).

23. Simon Saradzhyan, ISN Security Watch, *Russia's Carrot-and-Stick Approach to the West*, www.isn.ch/news/sw/details.cfm?ID=9773 (Sept. 22, 2005).

24. *Id.*

Under such circumstances, the functional division between traditional military duties and other tasks taken on by the security forces, such as law enforcement and counterterrorism, may become very blurred. Russia's experience in fighting an asymmetric war on its own territory, as well as those of other states facing similar problems (i.e., the United Kingdom in Northern Ireland), demonstrate that it may not be easy to reconcile tasks that are more specifically focused on and tailored to counterterrorist needs (intelligence assistance, intelligence sharing, special and covert operation), on the one hand, and more regular enforcement and policing measures, let alone military operations, on the other. Terrorism, however, is a very specific form of asymmetric violence that involves a combination of political motivation and a civilian/non-combatant target.

. . .

As most vividly demonstrated by Russia's experience in countering terrorism generated in the North Caucasus, the key issue is to what extent counterterrorism in a postwar but not yet postconflict environment should be viewed and undertaken as an enforcement-type activity. In fact, what distinguishes counterterrorism from other security tasks is that its central goals and the main indicators of success are prevention and preemptive disruption of terrorist activities and networks, rather than post hoc retaliation or coercion, particularly when the latter takes the form of massive collective punishment. Although coercive measures may be used selectively in support of counterterrorism, they are not the core of counterterrorism. The most pro-active and effective counterterrorist policy is never the most offensive and retaliatory one.²⁵

As a result of the offensive defeat, the Russian state and particularly certain institutions, e.g., armed forces and special services, lost public prestige as they appeared to be unable to make use of the whole power and might of Russia to defeat a relatively small (in comparison to Russia) separatist movement. In the interwar period between the Hasavyurt Agreement (August 1996) and the intervention of armored gangs from Chechnya to Dages-

25. Stepanova, *supra* n. 15, at 4–5 (emphasis removed).

tan in August 1999, the Russian state institutions visibly became the main victims affected by the terrorists, as the use of violence in Chechnya led to the de facto separation of that republic from the state territory.

In his speech made on May 12, 2001, President Putin clearly identified the targets that appear to be threatened by “terrorism,” saying that “no state is secure from these threats.” Speaking about concrete examples of terrorism, Putin referred to his most urgent example—Chechnya. Developing this example, Putin explained his vision of the Chechen fighters to a journalist of *The Washington Post* at the press conference held on June 16, 2001. The issues of state sovereignty translated into the maintenance of the constitutional order, the stability of borders, and the constitutional governance of state territories as endangered by the violence committed by Chechen terrorists and foreign mercenaries in Chechnya, are clearly identifiable in this speech. According to the objects specified by the Russian President as main targets of terrorists, generally, the attack on sovereignty is to be conceived as a political aim or ideological inspiration that conveys to this particular use of violence a terrorist characterization.

V. UNITED STATES–RUSSIAN COOPERATION IN FIGHTING OF TERRORISM

As the Russian Minister of Defense stated recently after meeting with United States President George W. Bush, both “Russia and the United States have common approaches to countering international terrorism.”²⁶ Mr. Sergei Ivanov stated, “We agreed that there is a need for tighter approaches to countering terrorists in any region of the world, regardless of their cover or their explanation of their actions.”²⁷

Sergei Karaganov, the President of the Foreign and Defense Policy Council, stated

Russian–American cooperation is not as effective as it could be because though grand decisions are taken they are not fulfilled at the lower level. No permanent structures have

26. *Russia, U.S. Share Approaches to Anti-Terror Fight*, <http://www.cdi.org/russia/johnson/9012-20.cfm> (Jan. 12, 2005).

27. *Id.*

been created while some are only in the process of being created. The bureaucracies in the two countries still view each other with a good deal of suspicion, an attitude that is a hangover of the Cold War.²⁸

According to Yuri Fyodorov, deputy director of the PIR Centre for Policy Studies in Russia,

Terrorism cannot be defeated in Russian Federation, if we use double standards in dealing with it. This concerns individual European countries [as well as United States], where Chechen envoys guilty of terrorism, find asylum and assistance, [and access to media and think tanks' resources, both financial and political].²⁹

VI. CONCLUSION

As discussed at the roundtable conference in the Moscow Carnegie Centre in September 2004,

The only thing that can prevent terrorist attacks is the cooperation of all countries of the East and West and their law enforcement and security structures, as well as their mutual trust and all-round assistance. Taken together, it is called the counter-terrorist coalition.³⁰

As I discussed in *Military Conflict and Its Consequences: Lessons of Kosovo, Afghanistan and Iraq for International Community*,

The lessons of conflicts after the end of the Cold War show that the Security Council is needed more urgently than ever in the aftermath of the Kosovo and Iraqi conflicts. While still trying to get enough power to become effective enforcement body, the Security Council is needed in its capacity as: (1) a normative framer of the collective will of international community; (2) an organ of reasoned interstate discourse over

28. *Political Analysts Sergei Karaganov and Lilia Shevtsova on Russia-US Anti-Terror Cooperation: Outside Help, or the Crisis of Great Power Mentality*, *Nezavisimaya Gazeta* 1, 5 (Sept. 2, 2004) (available at www.cdi.org/russia/Johnson/8358-12.cfm).

29. Victor Litovkin, *Moscow Carnegie Centre Discusses Terrorism*, *RIA Novosti* (Sept. 16, 2004) (available at www.cdi.org/russia/Johnson/8371-8.cfm).

30. *Id.*

the use of force, and (3) a body for organizing the conduct of post-conflict relations. It is a burden and legal challenge that can be hardly transmitted to a single state or selective group of states.³¹

And Alexei Arbatov agrees,

Defending the values of democracy and human rights in Africa, Asia and Latin America, it should be kept in mind, that in many cases authoritarian regimes are more effective in suppressing terrorism, than more amorphous and unstable countries. In many Islamic states the alternative to authoritarian rule is not democracy, but Muslim fundamentalism, which will propagate terrorism abroad.³²

In Russia as well as everywhere. Dmitri Trenin, the deputy director of the Moscow Carnegie Centre, stated, "Terrorism is not a policy but an instrument."³³ According to Trenin, its goal in Russia is to destabilize the situation in Muslim regions of the country, to undermine the people's trust of the Government and President, and

to unleash a war, to split Russia and to create a Muslim caliphate on its ruins. The [al Qaeda] comrades of Chechen terrorists pursue similar goals. They are trying to involve Washington in the struggle in the Islamic world, to use it [in] order to replace authoritarian regimes in some major Arab countries, which they want to unite under radical slogans, and to dictate their conditions to the world.³⁴

It was best said by Andrew Kuchins, Director of the Moscow Carnegie Centre,

The time has come to forget about contradictions that hinder the unification of such efforts and to focus on the main task to preventing terrorist attacks. To attain this goal, we should create more confident and close relations between the intelligence services, exchange preemptive information, supply modern anti-terrorist equipment and weapons, exchange

31. Tkachenko, *supra* n. 16, at 5.

32. Arbatov, *supra* n. 2.

33. Litovkin, *supra* n. 29.

34. *Id.*

experience that has been accumulated [by national security services of the United States and Russia], and most importantly, rally the political will for such co-operation and readiness to ask for and accept the assistance of other countries.³⁵

35. *Id.*