THE DESTRUCTIVE INFLUENCE OF TERROR IDEOLOGY ON LEGAL SYSTEMS

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The influence of terror ideology on religious, continental and Anglo-Saxon legal systems is described in this article. The article sets out the specifics of modern terror ideology, its distribution mechanisms, the degree of danger of terrorism to certain states and the need for the creation of an interstate anti-terror ideology protection system. In order to achieve effective research results, it was based on a combination of the various methods accepted in domestic law, including the general, general scientific, interdisciplinary and special methods.

Keywords: legal system; terrorism ideology; ideological interventions of a terrorist orientation; religious legal system; traditional Islam; continental and Anglo-Saxon legal systems; tolerance.

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1. Introduction

Terrorism, as a policy and ideology of achieving objectives through violence, physical destruction and fear, is not compatible with law and its civilized understanding. Terror, as an instrument of terrorism ideology, leads to a sense of justice transformation, to an aberration of the ideological and psychological perception of legal values, and to a formation of a distorted understanding of legality and legal order. As a consequence, this can promote an emergence of a new subculture based not on legal regulations that protect rights and freedoms and ensure the stability of the lives of citizens, but on a policy of the fracturing and destruction of the main human values, including a form of legal thinking, legal ideology and developed legal institutions.

Legal ideology, as a motivating element for the development of a sense of justice, is part of a state's legal system's structure. It influences the quality of other parts of a functioning system: legal entities; precepts and principles of law; legal relations; legal behavior; legal practice; and also interaction between the aforementioned. Altogether those parts define the legality and the legal order.

Unlike legal ideology, ideology can broadly be interpreted as a system of understandings and ideas expressing interests, outlooks and ideals of various subjects of policy. A basis of ideological reflection in reality is a certain public interest expressed as political, legal, religious, ethical, aesthetic and philosophical views. The ideology of terror is the distorted form of the reality. Specifically, the ideology gives a legitimate basis for violent acts for the sake of political goals. Characteristic features of terror are organized chaos and systematic acts of violence. The ultimate goal of terror is to create a situation of destabilization, depression and fear in society. Therefore, the ideology of terror in a philosophical sense has to prove the expediency and inevitability of physical repression for the implementation of certain political projects.

The ideology of terror is based on destructive factors, it is capable of having a destructive impact on all components of the legal system, and, therefore, the consequences of such process can have an irreversible character.

The specifics of the modern ideological concepts of a terrorist orientation consist of substantial content and maintenance of a powerful Internet presence through social networks, specific websites, programs and network games. The most vulnerable environment in this respect is the legal environment as a part of a state legal system. This is explained by several reasons; one of them is the conservatism of the law. Unlike other social norms, it is less easy to change and demands significant time resources for the creation of the precepts of law directed at concrete legal relationship management. The law does not manage to react to the calls for change from society. Especially in the case of the Internet, which has become an ideal platform for preachers of terror.

The modern ideology of terror is focused on specific consumers wishing to change their existence by any means. In the World Wide Web the promoters of terror have

gained a powerful tool allowing them to orient themselves rather quickly in relation to the domestic social and legal policy of the state and to influence the mentality and consciousness of various segments of the population with the maximum result.

'Terror,' 'violence' and 'repression' are analogous concepts, however, in dependence on political goals and tasks they gain various semantic values. 'Terror' by means of violence and repression can express the will of separate groups, as was the case in 1793–94 in France when the Jacobins actively destroyed the counterrevolutionaries, or states, *e.g.* the red terror at the beginning of Soviet power in Russia, or the will of a certain individual, *e.g.* of Pol Pot directing Khmer Rouge in Cambodia.

Terrorism is generally directed against political and class opponents with the application of violence and physical destruction. Terror cannot arise from scratch. In order for it to manifest itself, a corresponding social and political environment must exist that allows those claiming power to turn on the system through a series of violent acts used by terrorist organizations or groups for achievement of their political purposes.

The concepts 'terror' and 'terrorism' are not defined in international or Russian law. A. Schmid's works 'Political Terrorism: A Research Guide to Concepts, Theories, Databases and Literature'[1] and, in a coauthorship with A. Yongman, 'Political Terrorism: A New Guide to Actors, Authors, Concepts, Databases, Theories and Literature'[2] are unique among foreign research papers for their contribution to the interpretation of the above definition. Having analyzed more than 100 definitions by terrorism specialists they have offered two approaches to defining terrorism, *i.e.* a consensus definition and a short definition.

The essence of the consensus definition is reduced to the following:

> Terrorism is perceived as the method of repeating violent acts that cause anxiety, which are carried out by persons, groups and state actors, acting secretly or semi-secretly, for idiosyncratic, criminal or political goals, where – unlike in murder – direct objects of violence are not the main objects. Direct human victims of violence are picked out at random (accidental victims) or are selected (the representative, or symbolic victims) from a target section of the population and the attack on such victims serves as a message from those implementing the acts of terror. The threat and violent communication process are used by terrorists (or the terrorist organization) against the direct victims and main targets in order to manipulate the target audience, turning it into an object of terror, depending on the terrorists' original aims: to intimidate; compel or propagandize.[3]

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[1] Alex P. Schmid, Political Terrorism: A Research Guide to Concepts, Theories, Databases and Literature (Transaction Pub. 1983).

[2] Alex P. Schmid & Albert J. Jongman, Political Terrorism: A New Guide to Actors, Authors, Concepts, Databases, Theories and Literature (Transaction Pub. 1988).

[3] Schmid, *supra* n. 1.

The short definition of terrorism is the equivalent of a war crime in peace time. Both approaches are useful, but they have a shortcoming. The authors do not consider that, in many cases, modern terrorism is used not only by individuals or organizations, but also by states for the purpose of establishing political or economic influence as a consequence of the planned and executed chaos in the terrorized state. This is confirmed by the way terrorist organizations are used in Africa, Afghanistan, and the Middle East by third countries.

The are some other useful definitions of terrorism. J. Thackrah, in his 'Encyclopaedia of Terrorism and Political Violence,' has offered about 50 definitions of this concept, based on international, criminal, philosophical and other approaches.[4] In the work called 'Eyelids of Terrorism,' U. Laker presented a short definition of terrorism which drew the attention of many theorists.[5]

In Russian academic literature, opposite judgments concerning the definition of terrorism have formed, the authors generally being divided according to their field of competence. Political scientists and lawyers have different understandings of this category; they look at the nature of terrorism differently.

2. Legal Systems as an Object of Terror Ideology

Legal systems emphasize the specifics of historical traditions, legal culture, legal mentality and conditions of emergence, formation and development of law in the concrete state.

However, in the legal space which has developed in the modern world, there is no single, universal definition of a 'legal system.' It is considered that H. Kelsen was the first to define it in 1946.[6] Subsequently, J. Raz presented a differentiation between instant and non-instant legal systems[7] which was used in the works of J. Harris[8] and J. Finnis.[9]

In recent years, scholars have moved from theoretical research into legal systems towards studying the criteria of classification. In scientific publications, the approach

[4]   John R. Thackrah, Encyclopedia of Terrorism and Political Violence (Routledge & Kegan Paul 1987).

[5]   Cited in: Brian M. Jenkins, *The Study of Terrorism: Definitional Problems*, in Behavioral and Quantitative Perspectives on Terrorism 3 (Yonah Alexander & John M. Gleason, eds.) (Pergamon Press 1981).

[6]   Hans Kelsen, General Theory of Law and State 11 (Anders Wedberg, trans.) (2nd ed., Harvard University Press 1946).

[7]   Joseph Raz, The Concept of a Legal System: An Introduction to the Theory of a Legal System 1 (Clarendon Press 1970).

[8]   J.W. Harris, Law and Legal Science: An Inquiry into the Concepts Legal Rule and Legal System (Clarendon Press 1979).

[9]   John M. Finnis, *Revolutions and Continuity of Law*, in Oxford Essays in Jurisprudence: Second Series 44 (Alfred W.B. Simpson, ed.) (Clarendon Press 1973).

to assessment of legal systems from positions of national culture was defined.[10] The critical analysis of earlier published comparative and legal works was outlined.[11] Some researchers have begun to be engaged in the modernization of existing classifications of legal systems. It is possible to separate the work of U. Mattei, in which the author presents the original classification, from this list of experts.[12]

Despite the plurality of the approaches which has developed in foreign jurisprudence, it is possible to state the absence of certain classification criteria which allow allocate the patrimonial signs of the legal system.

The development of the classification legal systems remains a weakness of Russian jurisprudence. The greatest problem is allocation of the general features characterizing legal systems for their further systematization by categories, groups, and families. In our opinion, this is caused by a number of factors: first, the absence of universal criteria which serve as the basis for classification; secondly, the difference between sources of law value assessment; and thirdly, the ambiguity of interpretation of legal system-forming components.

Therefore, it is possible to note that the weak point of any legal system is the ideological component as its substantial content can be exposed to destruction due to its integration of terror ideology.

3. Ideology of Terror as a Destabilizing Element of the Religious Law System

In the legal system of a state, active components, such as the law, legal ideology, judicial (legal) practice, *etc.* constantly interact. The ideology influences the formation of the mentality of the society and therefore is the key category promoting the integration of new ideological concepts into the social and legal environment. The law does not always prevail in a society, sometimes the ideology makes an essential impact on it by means of which the functionality of a legal system decreases.

Submission of the law to religious ideology leads to the complete exclusion from certain legal systems of the fundamental moral and legal ideas and principles that are the basis of natural law theory. This, in turn, promotes a mood of protest which is favorable to the formation of terror ideology, which begins competing with the legal ideology.

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[10]   Roger Cotterrell, *Law in Culture*, 7(1) Associations: Journal for Social and Legal Theory (2003); Mark van Hoecke, *Western and Non-Western Legal Cultures*, 33 Rechtstheorie 197 (2002).

[11]   John C. Reitz, *How to Do Comparative Law*, 46 Am. J. Comp. L. 617 (1998); Ugo Mattei, *The Comparative Jurisprudence of Schlesinger and Sacco: A Study on Legal Influence*, in Rethinking the Masters of Comparative Law 238 (Annelise Riles, ed.) (Hart Pub. 2001); Basil Markesinis, Comparative Law in the Courtroom and Classroom: The Story of the Last Thirty-Five Years (Hart Pub. 2003).

[12]   Ugo Mattei, *Three Patterns of Law: Taxonomy and Change in the Worlds Legal Systems*, 45 Am. J. Comp. L. 5 (1997), available at <http://works.bepress.com/ugo_mattei/19/download/> (accessed Feb. 4, 2016).

The system most susceptible to ideological interventions of a terrorist orientation still remains the religious legal system, especially a particular subsystem of Islamic law.

A state with a religious legal system is characterized by the recognition and provision of religious instructions at the level of state regulations. This fact makes the revisionist ideological impact on the state especially dangerous where the system of the religious law dominates. The radical ideological changes introduced to a religious sense of justice promote not only its transformation, but also a change in the settled religious norms and rules of life. In religious legal systems, the ideology of terrorism makes a massive ideological, propaganda, moral and psychological impact on the population for the purpose of intimidating it and demoralizing resistance. In some cases, the ideology of terror is presented as a protective reaction to challenges of globalization and expansion of Western civilization and as an alternative model of development.

The impact of terror ideology on religious legal systems combines multidirectional motives, first and foremost, strategic and psychological. Terrorists connect achievement of the final result with violent total or partial change of the political, economic and legal systems of the state, by means of replacement of the secular power with the religious. Creation of an independent state or achievement of partial changes in the provision of the corresponding social or religious elements is welcomed.

Sometimes terror is presented as protection against the spread of the American world order. More often, the ideology of terror is presented as an ideology of a fair fight of the poor against the rich. The latter is successful in relation to religious legal systems as, by means of terrorist pressure, the illusion of a war of the poor against the rich for a 'fair structure of the state' is created. It establishes a belief that certain social opportunities will be created, despite the anti-humane ways of achieving the same.

At the end of the 20th century in the Islamic world, the ideology of terror was considered a synonym of the ideology of Pan-Islamism and religious fundamentalism. Islam is presented as the alternative project of globalization, as the answer to 'westernization,' as an opposition the Western ideology of a 'consumer society.' Manipulations of the Islamic self-actualization are an attempt to justify a new way of developing society. Ideologists try to present radical Islamic missionaries as competitors against world globalization.

4. Influence of Terror Ideology on the Continental and Anglo-Saxon Legal Systems

An ideological expansion of terror is being carried out in the continental and Anglo-Saxon legal systems. At the same time, the ultimate goals and results differ from the results that the ideological paradigm has set up for religious legal systems.

The principal ideological doctrines of terrorism directed against the above legal systems are the doctrine of revolutionary war; the doctrine of destruction of

the developed system's state's structure and the civil society relations by means of physical elimination of government institutions, representatives and total intimidation of the population; the doctrine of a return to 'true values;' the doctrine of overcoming alienation; *etc.*

Ideological intimidation of disloyal persons and the civilian population are used to achieve specific goals of impact on these legal systems. In this context, individual and mass terror is meant. It is possible to distinguish widespread methods: physical impacts; material influence; psychological influence; blackmail; intimidation of authorities and populations with danger of the people's death.

Opponents of the European social and legal life, and the cultural and religious traditions which developed in the Anglo-Saxon and continental legal systems actively conceive the ideology of terror based on the violent statements of other values. The tolerance expressed by Europeans and the British allowed terror ideology to spread among the foreign laborers who arrived in Europe and the United Kingdom from African, Asian and former Soviet Union states in a very short period of time.

Some researchers present the present terror as a subculture, extending and occupying considerable space in modern legal systems. The terror ideology is a manifestation of the polarization of two cultures: the culture of fundamentalism and the culture of tolerance, but terrorism is a technology generated by different situations.

The information and technological cover allows the terror ideology to exist in the form of a peculiar subculture, it extends through the Internet and makes a destructive impact on concrete legal systems.

The terroristic ideology is integrated into network games, music clips, advertizing and other socially interesting and significant programmes. The created product has specific addressees such as social consumers and adherents of certain subcultures who try to resist to the functioning legal system when they are consumed by the terrorist ideology.

The result of such communication on adherents of terror ideology is a change in behavior models. This is achieved by the social and psychological adaptations of a person who absorbs information from the most readily available sources. One such source is the Internet, especially social networks.

Receiving a sufficient amount of data is a motivational condition for making concrete solutions of a behavioral character. R.K. Merton set out some forms of individuals' social adaptation: conformism, innovation, ritualism, and mutiny. We believe that mutiny is an expression of social adaptation for a certain group of people. It is a rejection of the traditional ends and means, and the replacement of settled principles with new principles based on ideas of terror.

The subculture of terror has a destructive impact on the systems mentioned above through the youth environment which is most subject to radicalism. This is confirmed by cases of participation by youth from England, France, Germany, Finland

and other countries in terrorist groups. Opposing the law and order developed in the European countries, supporters of terrorism destroy the bases of the developed legal regimes, which often causes a very rigid response from the states. This further aggravates the situation, moving it into an antagonistic phase.

A situation then arises where the state legal system starts functioning in an atypical manner. The highest levels of a security threat are declared, counterterrorist operations are carried out, and additional law-enforcement actions are approved. The populations of such states are ready to vote for a toughening of domestic law-enforcement policy, for restrictions on freedoms, for giving the state special powers to access individual information, wiretapping, electronic correspondence control and other usually unpopular safety methods. All this finally results in a change of some legal system components.

5. Conclusion

As demonstrated above, the destructive impact of terror ideology on legal systems is obvious. Every year, the number of adherents of terrorism is growing and, according to experts, the 'social strategy of fighting against terrorism is not simple prevention, it also involves counteraction by designing new social norms. The logic of the fight against terrorism is the logic of anti-terror, and as history shows, this logic cannot win. At the same time, the logic of tolerance is a logic not against terrorism, but rather for it.'[13] Tolerance is devoid of pragmatism, but exclusively pragmatic actions are the cornerstone of terror.

The fight against ideology of terror has to consider the changes happening to social life which are directly connected with the processes of globalization and gradual integration of legal systems. Today, the need to counteract terror ideology by all available methods and means has brewed, starting with the restriction on filling Internet space with the ideological terrorist concepts and finishing with a network information war as a measure of counterterrorist activity.

Global terrorism poses a real threat to legal systems, and the fight against it is possible only through unified interaction between law-enforcement bodies, *ad hoc* bodies and civil society. It is necessary to strengthen counterpropaganda activities, even by going as far as a legislative ban on distribution of information of an extremist or terrorist nature.

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[13]   Общественный диалог и толерантность – способ противодействия терроризму и религиозному экстремизму [*Obshchestvennyi dialog i tolerantnost' – sposob protivodeistviya terrorizmu i religioznomu ekstremizmu* [*Public Dialogue and Tolerance – a Way to Counteract Terrorism and Religious Extremism*]], *Nauka i obrazovanie protiv terrora* (Jan. 20, 2010), <http://scienceport.ru/news/obshchestvennyy-dialog-i-tolerantnost-sposob-protivodeystviya-terrorizmu-i-religioznomu-ekstremizmu/> (accessed Feb. 4, 2016).

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