
The Necessity to Refine the Fight Against Drug and State Terrorism

JEMAL GAKHOKIDZE*

The series of terrorist assaults of 11 September 2001 shook the whole world. States unanimously acknowledged that these acts of terrorism to be the most barbarous challenge of the twenty first century. They were directed not against a single state but the stability of the whole international community.

Against the background of these events, a natural question arises - whether the currently available mechanisms are adequate for fighting terrorism and the drug business?

The international community has given, thus far, a negative answer to this question: The majority of states have deemed it necessary to undertake more efficient measures to counter terrorism. Its clearest manifestation is the counter terrorism campaign initiated in Afghanistan. It is intended to finally eradicate not only terrorism on the territory of Afghanistan, but also the illegal production and illegal traffic in narcotic drugs from there into almost every other state.

The threat challenging states through the dissemination of drugs from the territory of Afghanistan is particularly menacing. It is estimated that several thousands tonnes of opium are hidden away in Afghanistan and given the current most disadvantageous situation for them, the opium owners will soon try to sell on the international market. On the one hand, this would free the drug dealers from an "undesirable" stock but on the other hand – a large amount of "black" cash money would become available, that is necessary for the "al-Qaeda" terrorist syndicate to implement its terrorist assaults.

According to its nature "narcoterrorism" is no less menacing than any other terrorist crime. Moreover, it could be asserted that drug terrorism is a direct threat against the gene-fund of a nation. It destroys the human psyche and generates a real danger for the demographic security of a state.

In this situation it is clear that drug syndicates and terrorist organisations will ever more reinforce their co-operation. It will take at least two or three years to market the existing stock¹ and this period will be equally dangerous for the whole world. Of the twenty-four terrorist organisations identified as terrorist ones by the US State Department, twelve have links to international drug trafficking.² Under these circumstances it is not an exaggeration to assert, that the world is challenged with a new plague–narcoterrorism.

* Deputy Secretary of the National Security Council of Georgia, Candidate of Legal Sciences.

¹ About 10 thousand tones of opium only in Afghanistan, plus 3000 tones of the same drug, unless the current crops are destroyed.

² See speech by *Lord George Robertson*, the Secretary General of NATO at the International Conference "A New Security Network for the 21st Century", Athens, 17 April, 2002.

The threat of narcoterrorism generates two major problems for the international community:

Firstly the distribution of such a supply of drugs generates a great danger for the whole world, particularly for its future with regard to global development in the twenty first century.

Secondly the marketing of such quantities of drugs creates a large reserve of money, that would be one, if not the sole, long-term sources of financing terrorism.

Despite the counter terrorism campaign undertaken in Afghanistan, it probably will not be sufficient to settle the global problem of fighting terrorism, and particularly narcoterrorism. It is apparent that this fight has to develop into a counter narcoterrorism campaign and the states of the world must declare a fight both against terrorism and the drug business. Moreover, this necessity is magnified by one very dangerous phenomenon – the organisation of both terrorism and the drug business at the state level in some countries.

Neither European nor Anglo-American countries' criminal legislation do not as yet envisage the liability for drug terrorism. This type of offence is not recognised sufficiently in international criminal law either. That is to say there is no international criminal policy developed to counteract this grave crime. At the same time, criminal legislation of most countries provides for the liability for types of technological terrorism: the use of nuclear, chemical, bacteriological, biological and radioactive substances.

With a view to fighting the threat of narcoterrorism efficiently, it is necessary to improve the criminal legislation of states in order to implement adequate measures against this international crime. It will be expedient to introduce a new article into the Georgian Criminal Code on criminal liability for drug terrorism. It should be included in the chapter that provides for the liability for crimes against humanity, thus attributing this type of crime to the category of international ones.

The draft of such an article may read as follows:

“Narcoterrorism, i.e. the distribution of large amounts of drugs in a state or some part of it, posing a threat to the lives and health of a large amount of people, as well as a similar action aiming for the total or partial extermination of some national, ethnic, racial, religious or other groups”.

As regards the sanctions to impose upon such a crime, it is without a doubt that every state should provide for the maximum penalty possible. In the case of Georgia, the sanctions could be equal to the penalties imposed for such crimes as: terrorism, genocide, and crimes against humanity. Taking due consideration of the particular gravity of the crime, the deprivation of liberty for a period of ten up to twenty years, or life imprisonment should be provided for drug terrorism.

Given the pressing nature of the issue it would be expedient to present this proposal for consideration by the UN Counter Terrorism Committee for due discussion and in order to

attribute drug terrorism to the category of an international crime.

With respect to state terrorism, no doubt, it still exists today in a variety of political or legal manifestations. An example is the terrorist organisation al-qaeda and Afghanistan. If terrorism did not exist at the state level, the international community would have avoided the bloody tragedy of Balkans. Moreover, there are evidences that al-qaeda and its leaders intended to exert their influence over the countries of Central Asia, including even Tatarstan. Some actions, including military ones, were planned to this end. But these plans were thwarted by the counter terrorism campaign in Afghanistan. State terrorism is the most dangerous manifestation of terrorism. As President George Bush stated state terrorism “seeks terrorism and terrorist ideology to rule the whole world”.³

There is only a thin line between “state terrorism” and military aggression. Unfortunately, only political dictionaries make mention of “state terrorism”. With respect to criminal legislation, states are not familiar with the composition of state terrorism. It is not included separately in the list of crimes against humanity.

In international criminal law theory, some consider that the “political characteristics of a certain act do not often coincide with the legal qualification of the same act. One can call a policy criminal, terrorist, but this does not provide for the formulation of a composition of a specific crime [...]. If a law or a treaty considers some act as a manifestation of terrorism, we deal with only its political characteristics, but there is no composition of a crime, a criminal liability is to be imposed for”.⁴

It is difficult to agree with such an approach, especially taking into consideration recent events. It is necessary that the criminal legislation of every state, as well as international criminal law rank terrorism as a crime.

The following article could be included in the Criminal Code:

“State terrorism i.e., the setting up of a terrorist organisation or its leadership by a public-political official, as well as participation in the activities of such an organisation, also the public call for such an action through the media, whether against one’s own or a foreign country, shall be punishable by the deprivation of liberty for a period of ten to twenty years or by life imprisonment”.

For the history of mankind 11 September 2001 has become the date of a barbarous manifestation of terrorism. But this date should not be famous only for this. It should also mark the beginning of the end of international terrorism.

³ New York Times, October 11, 2001.

⁴ *Kudriavtsev*, International Criminal Law, Moscow, 1999, 140-141; For more details: *Murphy*, Punishing International Terrorists, 1985.