



Студенттер мен жас ғалымдардың
«ҒЫЛЫМ ЖӘНЕ БІЛІМ - 2018»
XIII Халықаралық ғылыми конференциясы

СБОРНИК МАТЕРИАЛОВ

XIII Международная научная конференция
студентов и молодых ученых
«НАУКА И ОБРАЗОВАНИЕ - 2018»

The XIII International Scientific Conference
for Students and Young Scientists
«SCIENCE AND EDUCATION - 2018»



12th April 2018, Astana

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Л.Н. ГУМИЛЕВ АТЫНДАҒЫ ЕУРАЗИЯ ҰЛТТЫҚ УНИВЕРСИТЕТІ**

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БАЯНДАМАЛАР ЖИНАҒЫ**

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The proceedings are the papers of students, undergraduates, doctoral students and young researchers on topical issues of natural and technical sciences and humanities.

В сборник вошли доклады студентов, магистрантов, докторантов и молодых ученых по актуальным вопросам естественно-технических и гуманитарных наук.

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(connection) or assembly, - from the day of its installation (connection) or assembly (art. 17, p.2)[15]. However, it is not sufficient for e-commerce parties' right's protection.

Today, in the Age of Information Technology Development, legislation does not have time to develop. IT outruns it.

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INTERNATIONAL AND LEGAL MECHANISMS FOR REGULATION OF RENDERING TERRORISM AND EXTREMISM

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In modern conditions, terrorism has been transformed into a large-scale and complex socio-political phenomenon of national (intra-state), regional and international scale. It is conditioned by the basic political, economic, social and cultural contradictions of national and international life. Terrorism, by its very nature, as an accessible and often effective form of violence, tends to spread more and more. Violence in various forms (especially terrorist ones) largely determines the face of the modern world order, pointing to the imperfection of human society, and also to the weakness of the organizational and legal system that opposes it. This actualizes the need for scientific understanding of both the phenomenon of terrorism itself and the legal mechanisms for combating it.

Assessing terrorism as a criminal phenomenon, it is necessary to build the legal structure of its composition accordingly, from the positions of national and international law. The above works are mainly based on assessments of terrorism as a criminal act, terrorist act. This kind of terrorism (in the form of sporadic terrorist attacks), was typical for the 70-80-ies of the XX century. At present, the most dangerous forms of terrorism for the national and international world are largely due to the serious political and military (armed) conflicts of states, groups of states, civilizations and are characterized, as a rule, by mutual violation of the parties to international law [1].

The manifestations of extremism and terrorism in all its forms carry a terrible threat to humanity. These very dangerous phenomena of modernity entail such negative factors as military provocations, interethnic hatred, spread fear and distrust between social groups. The situation of countering extremism and terrorism is further complicated by the fact that they are difficult to predict, which does not always allow us to speak about their timely warning. Today, no state in the world can say with certainty that it is «free» from the problems associated with the threat of extremism and terrorism. These terrible social phenomena have taken deep root and reached megastastic levels, embracing the entire international community. In the light of the current situation, the problems of improving the mechanisms of counteraction, including at the legislative level, come to the forefront. This is why the purpose of the article is to consider issues related to the development of the main areas of international opposition, as well as using the foreign experience of legal regulation of the fight against extremism and terrorism by creating a legislative "barrier" that performs the functions of protecting the life and health of citizens, their rights, freedoms and interests. The international normative acts defining legal means of struggle against crimes of extremist and terrorist orientation are listed and analyzed. The basic directions of counteraction to extremism and terrorism at the present stage are given. Proposals are formulated on new forms of confrontation with these phenomena both at the legislative level and in practice.

Daily headlines remind us that international terrorism is a global risk, and it will continue to be one for the foreseeable future. The financial impacts of terrorist attacks have steadily increased over time.

A number of measures in the field of combating terrorism are provided for by international legal instruments. At the United Nations level, the following documents have been adopted:

- Convention on the Establishment of an International Criminal Tribunal for bringing terrorists to justice;
- Convention on the Suppression of the Taking of Hostages;
- Declaration on measures to eliminate international terrorism;
- The Convention for the Suppression of the Financing of Terrorism;
- The Tokyo agreement on international terrorism and some other documents [2].

Kazakhstan strongly condemns terrorism in all its forms and manifestations. Our country stands for the adoption of collective efforts of the world community to combat this phenomenon. Counteraction to terrorism is one of the priority directions in ensuring national security of the country. We have joined the fourteen international universal instruments to combat terrorism. The President of Kazakhstan, N.A. Nazarbayev, notes: «It is absolutely clear that whatever geopolitical reasons for the origin of terrorism in the person of individual terrorists or terrorist groups, terrorism has finally come out of the control of world and regional powers» [3; 32]

International law supports the implementation of government-supported private insurance solutions to the problem of insuring property and casualty losses stemming from terrorism. International legal principles have long supported the global mitigation of terrorism risk, and the United Nations («U.N.») has called for such a goal [4]. As with other security cooperation agreements, the creation of an international terrorism insurance scheme reinforces the customary international law norms that international terrorist acts are universally condemned by civilized nations. International terrorism violates Article 39 of the U.N. Charter because, by virtually any definition, it disrupts international peace and security. While most international law related to terrorism takes the form of conventions and treaties designed to encourage cooperation in terrorism investigations, the common thread woven through this jurisprudence is the condemnation of

terrorism and the principle among nations to allow justice to be sought for the victims.[For example, the U.N. Declaration on Measures to Eliminate International Terrorism (1994) noted that due to an increase in acts of terror, member states should «review urgently the scope of existing international legal provisions on the prevention, repression and elimination of terrorism in all its forms and manifestations, with the aim of ensuring that there is a comprehensive legal framework covering all aspects of this matter»[5]. Whether prohibitions against international terrorism have evolved into *jus cogens* remains to be seen, but there can be little question that it has evolved, at least in part, into customary international law. Collective attempts to deter international terrorism, or to ameliorate its effects, are expected of civilized nations.

Terrorism indemnification is not just a commercial law issue; it is one of international human rights. The U.N. Global Counter-Terrorism Strategy includes the consideration of victims' rights as a component of a comprehensive system to degrade the conditions in which terrorism can take root. Because victim compensation resonates as an access-to-justice concept, existing international law supports the propagation of terrorism risk insurance as a customary prophylaxis to reparations [6]. Over the past twenty years, state practice has attempted to ameliorate the impact of international terrorism upon victims, and therefore such practice is integral to a global insurance scheme. The costs of international terrorism routinely impact more than private companies, but rather entire populations, often as a result of targeting based on membership in a particular social group. The principles of international human rights law similarly contemplate a shared international willingness to intervene with prophylactic and restorative justice measures, such as an insurance scheme, as necessary, to address human rights abuses like terrorism.

International human rights law has also evolved to recognize crime victims' rights, including some measure of financial satisfaction for damages resulting from grave and serious violations of international law. As Bassiouni observes, the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985), and the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (2006) have memorialized the U.N.'s commitment to a bill of rights for victims of such violations of international law. Because acts of terrorism often constitute gross violations of human rights, it stands to reason that an international scheme that aspires to make victims of such violations whole through private or public insurance, complements the development of international law and provides quasi-private solutions to customary international law principles. That customary international law supports insurance among nations against gross violations of international law can be seen in the growing recognition of crime victims' rights to representation in international law; a fact that makes their interests, including interests of reparation, or restitution, more prosecutable. The International Criminal Court now expressly affords crime victims representation in criminal proceedings and budgets for victim and community services related to the crimes it investigates. Similarly, the *ad hoc* tribunals, the International Criminal Tribunal for the former Yugoslavia, the International Criminal Tribunal for Rwanda, Extraordinary Chambers within the Courts of Cambodia, and the Special Tribunal for Lebanon, which was designed to address an act of terrorism, each have arms dedicated to victims services through which victims can access justice before an international tribunal.

Is it possible to defeat terrorism? It is clear that in the fight against it there are no simple, quick decisions and easy victories. Political scientists do not accidentally call terror a strong strategy or a weapon of the weak, against which the powerful of this world are often unarmed. But terrorism is not all-powerful.

It is impossible to create a security system that is likely to find a small explosive device on the body of a suicide bomber in the metro during peak hours. There are no such special services that will be introduced into all criminal groups and will in advance warn about the place and time of each strike. This does not mean that one should not require authorized bodies to do everything that is in their power, and ask for possible omissions. But we need to be very clear about where the limits of their capabilities are.

Thus, the creation of an effective mechanism to counter international terrorism in our country must, first of all, take place within the framework of the continuous improvement of national legislation, which in turn provides for an in-depth study of the international legal aspects of this problem. Therefore, the search for effective measures for the legal regulation of the fight against any manifestation of terrorism should not stop, and this requires strengthening the capacity and capacity to fight terrorism at the national and international levels.

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УДК 341.9

ХАЛЫҚАРАЛЫҚ ЖЕКЕ ҚҰҚЫҚТАҒЫ УНИФИКАЦИЯ МӘСЕЛЕСІ

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Ғылыми жетекші: Сейдеш Б.Б.

Аңдатпа. Мақалада халықаралық жеке құқықтағы унификация мәселесі талданып, түсіндірілді. Унификацияланған нормалардың құқықтық күші қарастырылды.

Аннотация. В данной статье анализируется и разъясняется вопрос об объединении в международном частном праве. Рассматривается юридическая сила единых норм.

Түйінсөз. Унификация, халықаралық құқық, халықаралық жеке құқық, халықаралық шарт, халықаралық ұйым, құқықтық норма, материалдық норма, процессуалдық норма, унификацияланған норма.

Құқықтық әдебиеттерде ішкі құқықтың дамуы әрқашанда көпті болсын, азды болсын халықаралық сипаттағы, яғни интернационалды процесс екені көрсетіледі, өйткені өзінің құқықтық жүйесін қалыптастыра отырып мемлекеттер бір-бірімен тәжірибе алмасады. Осындай тәжірибе алмасу кезінде құқықтық жүйелердің өзара ықпалдастығы жүйенің барлық элементтеріне таратылады – құқықтық санадан бастап құқықты қолдануға дейін және бұл процес жаһандану жағдайында айрықша көлемді сипатқа ие болады.

Ресейлік ғалым, профессор И.И.Лукашук құқықтың халықаралық сипатқа ие болуының басты ерекшеліктерін былайшы көрсетеді: «Бірде бір құқықтық жүйе таза ұлттық құбылыс емес деп тура айтуға болады. Бірде бір мемлекет басқа елдердің тәжірибесін ескерместен өзінің құқықтық жүйесін құрған емес», өйткені «қоғамдық қатынастар, демек олардың құқықтық реттелуі де неғұрлым күрделенген сайын, ұлттық құқықтық жүйенің міндеттері неғұрлым кеңейген сайын, шетелдік тәжірибені ескеру маңыздылығы соғұрлым жоғарылай береді» [1].