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Basic Trends in Counterterrorism

Col. V.V. ZELYONY,
Candidate of Political Sciences

Abstract. The author offers his own interpretation of the concept of a trend in counterterrorism and, drawing on the findings of his research into the operation of counterterrorist forces, identifies and examines the main thrusts of counterterrorist policies.

Keywords: terrorism, counterterrorism, trend, conflict, delegitimization, centralization.

The National Security Strategy of the Russian Federation up to 2020 calls terrorism one of the global challenges of our day.¹ The 9/11 terrorist attacks in the U.S. in 2001 introduced totally new approaches to the fight against terrorism. Terrorism, though, has been carried on in many more countries – its latest blows fell in Grozny, Russia's Northern Caucasus, in December 2014, and in Paris in January 2015, a sign that counterterrorist policies have to be given a major refit. Here in Russia, the domestic counterterrorist policy needs an injection of foreign experience to be put on a sound scientific plateau.² The refit can facilitate examination of counterterrorism as it is practiced on the ground and help basic counterterrorist trends to be identified. In turn, with the trends set, the efforts of international organizations and national authorities will be tuned up and geared to forestalling and fighting terrorism.

Modern science offers several definitions of the term *trend*. The author has fine-combed them and come up with his own definition of the *counterterrorism trend* which is the direction followed by counterterrorism toward its end goal.

An analysis of counterterrorist activities of international and regional organizations and government authorities in many countries brings out several basic trends in counterterrorism.

Elimination of differences and conflicts that breed terrorism. Social inequality generates differences that lead to conflicts where terrorism is used to achieve goals of any kind. Eliminating the causes of differences lying at the root of conflicts and ending the conflicts themselves is the principal and most promising trend in counterterrorism.

Conflict researchers have established that socioeconomic, political, and ideological measures help lower the level of conflicts brewing in society. Following these intimations, international and regional organizations and government authorities in countries most exposed to divisive conflicts carry out measures that either smooth out potential conflict-ridden situations or reduce the level of relationships rife with conflict. This approach has been accepted in international and national documents on counterterrorism that declare the readiness of the organizations concerned to straighten out differences threatening to explode into terrorism. For example, the Plan of Action annexed to the UN Global Counterterrorism Strategy admits the existence of several factors contributing to the spread of terrorism, and a section of the Plan of Action discusses measures to neutralize these factors.

The trend toward patching up terrorism-breeding differences and conflicts is recognized at the national level as well. Priority is given to socioeconomic, political or any other measures judging from the specific history – past and present – and performance of a particular political system.

A recent illustration of effective measures taken to defuse confrontation in a festering conflict and to avert a social conflict at the national level was provided by the referendum on Scotland's independence held in September 2014. Scotland stayed on within Great Britain since 55.3% of its voters cast their ballots against independence.

The Russian government authorities give much attention to ways of forestalling conflicts that might degenerate into acts of terrorism. Prevention of terrorism receives priority as one of the basic principles of counterterrorism.³ This principle was given effect in the 2003 referendum on the Constitution of the Chechen Republic. According to official returns, 96% of the voters who cast their ballots came out for the republic's basic law⁴ in which Article 1 says that the Chechen Republic is a democratic law-governed state within the framework of the Russian Federation.⁵

This impressive consensus is created by strong material incentives. Between 2004 and 2007, the Chechen Republic's budget revenues rose more than threefold to reach over 30 billion rubles in 2007. Actually, almost 90% (between 87% and 93% by different estimates) of this amount were transfers from the federal budget. This sort of funding puts the Chechen Republic's budget on a par with the budget of Rostov Region that has a population 4.5 times as large.⁶ The Chechen Republic has to this day been drawing almost the full 90% of its revenues from the Federal Government.⁷ A similar approach is also applied to other regions threatened by terrorism. For example, Dagestan received 43.2 billion rubles in its second biggest subsidy from the federal budget in 2014.⁸

An analysis of the activities of international organizations and government authorities furnishes a reason to consider elimination of terrorism-fostering differences and conflicts as the most promising and effective counterterrorism trend. Its efficacy is assured by the choice of either of the three most construc-

tive behavioral strategies in a social conflict – avoidance, compromise, or cooperation.

Delegitimization of terrorism. The terrorism quasi-ideology is the core idea for the delegitimization (attributing to an object any qualities that are not supported by a majority of its likes) of terrorism. It is right to view terrorism as a quasi-ideology by force of several circumstances:

- “fuzziness” of meaning because of the presence of a great variety of views on the definition of “terrorism” and the absence of common criteria to produce a workable definition;
- international practice of sticking the terrorist label to one agent or another in accordance with political pragmatics rather than clearly defined criteria; and
- an illusion of comprehension created in the mind of a recipient of information about terrorism.

On the outside, delegitimization of terrorism takes the form of its conceptual and legal basics conveying the judicious assessments of terrorism and counterterrorism provided by spokespersons of government agencies and significant groups. As a rule, these assessments are publicized in conceptual or doctrinal, regulatory, and legislative documents.

Terrorism is delegitimized at the international, regional, and national levels – by the UN, above all, and by regional organizations internationally as well. At the national level, delegitimization is tracked down in the operation of practically all states, rather than only those where terrorism is the biggest headache. This unanimity has been achieved for the need to implement the rules of international law.

The United Nations’ Global Counterterrorism Strategy is the most significant international conceptual document on the fight against terrorism. It contains judicious assessments of terrorism, naming it among the most serious threats to international peace and security. The Resolution 60/288 also strongly condemns “terrorism in all its forms and manifestations, committed by whomever, wherever, and for whatever purposes, as it constitutes one of the most serious threats to international peace and security.”⁹ The Resolution sets out a strategic approach to the fight against terrorism that is common for all UN members. Briefly, the use of terrorism is unacceptable in whatever forms, manifestations, and steps must be taken to prevent and combat terrorism.

An example of delegitimization at the regional level is provided in the statement on the support of solidarity for the actions of the Russian Federation in its fight against international terrorism in Chechnya that was passed by the Council of the CIS Inter-Parliamentary Assembly on June 13, 2000. The Statement also contains an assessment of terrorism and sets out measures to combat it. In particular, the Statement condemns all acts and methods of terrorism as criminal and unjustifiable behavior, no matter on the territory of which country and by

whomever they might be perpetrated, and points to the need for close cooperation among the CIS member countries in their opposition to terrorism.¹⁰

We distinguish two approaches to the delegitimization of terrorism at the national level. The first is developing conceptual documents on the fight against terrorism, and the second is doing without any. In both instances, though, the fight against terrorism as a mandatory element of delegitimization of terrorism must be raised in laws and regulations.

The first approach is followed in a large number of countries, some of them leading world powers. A package of doctrinal documents, laws, and regulations giving an assessment of terrorism has been developed in the U.S., for example, and the measures listed in all of them are believed at the official level to be capable of contributing to the resolution of the terrorism problem.

Much attention is given in Russia to the development of conceptual and legal frameworks for the fight against terrorism. They are fleshed out in the National Security Strategy of the Russian Federation up to 2020, the Concept of Counterterrorism in the Russian Federation, the Federal Counterterrorism Law, the Federal Extremist Activity Suppression Law, and many other laws and regulations.

All the documents on terrorism, including the Strategy and Concept, give an assessment of terrorism and lay down basic approaches to counterterrorism. To begin with, terrorism is classified as an “ideology of violence and practical exercise of influence on decision-making by government authorities, local self-governments, or international organizations by intimidating the population and/or by using other forms of unlawful violent actions.”¹¹ The official documents also set out the basic principles of counterterrorism, the purpose, tasks, and goals of a relevant national system to be developed to this end.¹²

The second approach to delegitimization of terrorism at the national level does not suggest reliance on any conceptual documents to guide the fight against terrorism. It is used in several countries because of the specific practices they follow in their national security policies. Israel is a typical example of countries in this category. An assessment of terrorism and measures the Jewish state uses to fight it are set out in laws and regulations, including the Defense (Emergency) Regulations, the Prevention of Terrorism Act, and Terrorist Financing Prevention Act.

Delegitimization of terrorism is a way to demonize it and consolidate society in the face of terrorist threat.

Centralization of counterterrorist activities. In the general sense, centralization is concentration of control in a single center, in the hands of a single authority. Centralization, the Russian Modern Glossary of Economics reads, implies construction of a hierarchic control structure that is dominated by vertical links, the top-lying tiers having superior powers to make decisions binding on the underlying tiers.¹³ In political science, centralization is conventionally treated as concentration of power in a single center and subordination to a single center.

Centralization of counterterrorist activities, as we interpret it, is a consecutive flow and the result of organizational changes directed at creating a hierarchic structure where the power to counter terrorism is concentrated in a sole center. Depending on the specific details in the operation of the political system, the sole center is either an agency set up particularly for this purpose or one of the state institutions charged with the task of maintaining national security.

Counterterrorist activities are centralized at the international, regional, and national levels. International and regional organizations authorized to maintain security are prone to set up specialized bodies devoid of instruments to enforce their decisions that are only in the exclusive possession of member states of international and regional organizations. As a result, the specialized international and regional counterterrorist bodies are only concerned with the various coordination aspects of counterterrorist activities.

There are many international and regional purpose-guided counterterrorist bodies. A counterterrorist body, a counterterrorist purpose-guided group, is functional within the UN, the most influential international organization. A step down, the CIS Counterterrorism Center is an example of a regional counterterrorist body.

All purpose-guided counterterrorist bodies vary widely in status at the national level. As a rule, national laws give these bodies a coordinating role. In practice, though, their status depends on the political system in operation. The political practice actually gives the scope for real, not formal, powers to purpose-guided counterterrorist bodies and invests them with a role and a place in the counterterrorist hierarchy.

The Russian Federation is a country where its purpose-guided counterterrorist body is invested with the reasonably broadest range of powers. In formal terms, its National Counterterrorism Committee (NCTC) is a coordinating agency of the executive branch of government. The real powers vested in the NCTC, though, are broader than are committed to paper because it has executives of various federal ministries and members of both houses of Russia's Parliament sitting on its sessions in voting capacity.

In the U.S., counterterrorist activities are centralized differently since centralization there is aimed at setting up an interagency mechanism to counter terrorism, in the first place. The interagency mechanism comprises bodies of executive, rather than legislative, government and, in consequence, the purpose-guided body wields significantly more curtailed powers than it needs to fulfill its mission.

The Department of Homeland Security is generally thought to be the U.S. purpose-guided counterterrorism agency. This is not exactly so, as a look at the Department's main areas of concern and a structure to match will show. In fact, its job is done by the National Counterterrorism Center that is charged with two major missions – coordinating intelligence analytics and supporting the strategic planning of operations to prevent acts of terrorism.¹⁴

The Counterterrorism Bureau (CTB) in Israel can be considered a counterterrorism body invested with consultative powers. For all the similarity of the

Counterterrorism Bureau in Israel, the National Counterterrorism Center in the U.S., and the National Counterterrorism Committee in Russia in name, they differ significantly in the scope of their powers. The CTB in Israel is predominantly an auxiliary agency, as follows from the list of its tasks.¹⁵ The nature of its tasks suggests that it is a counterterrorist body in formal terms only.

Terrorism is viewed in Israel as one of the threats to its national security, one that at times compares to the threats to its existence. Counterterrorist efforts are, therefore, centralized within the framework of efforts made to maintain national security. For these reasons, the National Security Council, the Prime Minister's consultative body that integrates the Counterterrorism Bureau, can be regarded as a counterterrorism body in Israel.

The range of missions fulfilled by the National Security Council, and the very fact of its existence at all, in Israel is proof that centralization of counterterrorist efforts in the Jewish state is achieved by vesting counterterrorist powers in a government agency holding a relatively higher status in the state government hierarchy than a body set up especially for this purpose.

On the whole, there is a clear trend toward centralization of counterterrorist activities at the international, regional, and national levels as a way to promote coordination of efforts made by international organizations, government authorities in individual countries, and local authorities, and also by civil society institutions to enhance the efficiency of counterterrorism.

Governments' refusal to comply with political demands of organizations that practice terrorism. Conflicts involving the use of terrorism have reasoned prehistory. Since both sides to a conflict frequently have incomparable political, economic, military, and other capabilities, they are in fact involved in an asymmetric conflict in which the "weaker" side resorts to terrorism. Professor L. Deriglazova of Tomsk State University, Russia, writes, with reference to U.S. researcher D.E. (Steve) Stevenson, that the "stronger" side has two options – either give up and sit down to talk with the terrorists or draft in all available reserves to fight on.¹⁶

Strong preference appears to be given today in counterterrorist practices to the second option. Terrorism has *de jure* been struck off the list of legitimate ways of engaging the opponent, terrorist activities are unlawful, and any political demands put forward by the terrorists are unacceptable. The attitude that political concessions to terrorists are unacceptable has been spelled out explicitly or implicitly at the international, regional, and national levels. For example, the Plan of Action, an annex to the United Nations Global Counterterrorism Strategy, says that "none of [these] conditions can excuse or justify acts of terrorism."¹⁷ This approach to the issue at hand is evidence that terrorism as a method of warfare is unacceptable and that the terrorists' political demands must be rejected.

This tough position is softened significantly by the absence of general criteria for the definition of terrorism and, in consequence, any algorithms for any organization to be pronounced a terrorist outfit. Unanimous agreement of all UN

Security Council members is required for a pronouncement of this sort to be made. A similar agreement is to be reached in the European Union – where the EU Council is to make a decision by general consensus – for any group to be pronounced a terrorist organization.

An entirely different practice is followed in the Collective Security Treaty Organization (CSTO) [including Russia and several other CIS members – *Tr:*] for any organizations to be put on the list of terrorist groups. The member countries' relevant decisions are added up to obtain a majority. No political demands by organizations on the summary list are fulfilled. This approach, though, does not rule out political dialogue with groups that are not named in the list of organizations considered by the CSTO to be practicing terrorism, even though regarded as terrorist organizations by other members of the international political community.

At the national level, the Russian Federation sets an example of the most clear-cut attitude toward terrorists' demands – making no political concessions is one of the basic principles of counterterrorism.¹⁸ This approach refers to the possibility of Russian government agencies using a common behavioral strategy in a conflict with any group using terrorism – it is rivalry based on active confrontation.

A formally different situation has shaped up in other countries. With Israel as an illustration, its laws do not embed the principle of no political concessions. Even though Israeli Prime Minister Benjamin Netanyahu said, with emphasis on his nation's uncompromising fight against terrorism, “Not one of [our] governments ... has given way to the terrorists' demands,”¹⁹ the truth lies elsewhere. Actually, there has been no end of deals to swap Israeli citizens seized or abducted by the terrorists for people serving time for crimes against the state's security.

To end on this no-swaps note, international-, regional-, and national-level politicians advertise their aversion to complying with demands advanced by people using terror to promote their interests. In practice, though, whether they do or do not depends on the politicians' specific behavioral patterns.

On the one hand, refusal to fulfill the terrorists' demands robs them of the chance to play up the “stronger side's weaknesses” and enhances the efficacy of counterterrorist measures. This approach only makes sense talking to terrorists to enter into a deal over tactical issues (preventing the murder of hostages, hostage release, and the like). On the other hand, it is refusal to keep up dialogue with political opponents and gear up instead for a confrontation policy in a conflict only. This is a formal way of staying out of any other behavioral strategies – avoidance, compromise, or cooperation.

Restraints on information about the authorities' counterterrorist activities.

This trend is developed and maintained by counterterrorist agencies that want to reduce to a minimum the amount of information about terrorist activities reaching the media to deny the terrorists the opportunity to achieve at least one intermediate objective of their efforts – getting into the media spotlight. On top of that, the authorities' labors carry conspiratorial undertones.

This approach is followed in many countries. In the Russian Federation, for one, combining public and backroom moves, confidentiality of data on special operations, technicalities, tactics, and who's what is one of the principles spearheading the fight against terrorism.²⁰

The trend toward keeping a lid tightly closed on information about counterterrorist operations conducted by competent government agencies is most in evidence as regards the intelligence community, the government's tool in its fight against terrorism. The Intelligence Service Act specifies in general outline that "combination of public and clandestine methods and assets" is a principle of intelligence gathering.²¹

The lid on the competent authorities' clandestine activities was pried a chink wider in the Federal Security Service Law – one of the guiding principles of the Service's operation is "secrecy and combination of public and clandestine methods and assets."²² Further proof of this principle is that the circumstances in which clandestine methods and assets are used by the intelligence agencies are laid down in federal laws, rules, and regulations, the substance of which is classified as an official secret.²³

Counterterrorist agencies conduct their operations behind closed doors in other countries as well, like they are in Israel – where SHABAK is the General Security Service and MOSSAD is the Intelligence and Special Tasks Service.

SHABAK is a government agency that, together with several more, is not required to make public any information about its activities under the Freedom of Information Law,* and the General Security Service Law sets down that the Service employees' records are confidential information.²⁴

MOSSAD is no less secretive about its activities than SHABAK and operates under its watertight in-house rules.

What comes out of it all is that the desire to circumscribe information about the terrorists' goals and the tight-lipped silence on the competent authorities' moves have set a trend toward minimization of information about their counterterrorist activities and their significantly higher efficacy.

Some counterterrorism activities are outside the law. The international community is not at one in its approaches to the definition of terrorism. It is a plausible explanation why resolutions passed at the UN on counterterrorism mostly have a declarative ring that sounds differently to different people. No accepted criteria at hand to bring out an undisputed definition of terrorism is an obstacle to a body of counterterrorism laws being built on the international scale and a freeway for double standards being applied in the fight against terrorism.

A totally different situation has developed in national legislations on counterterrorism. Their concise and explicit phraseology clears the way to legitimacy

* The Freedom of Information Law was passed by Knesset in May 1998 and went into force in May 1999. Article 1 of the Law entitles every Israeli citizen or resident of the country to obtain information from government authorities, including government ministries, the President's office, and Knesset, among others.

of counterterrorist operations and their consistency with international rules, in general outline.

The need to live by the rules of law, even where it is turned against terrorism, is filled differently in different political systems. As a rule, this is self-evident truth. In some jurisdictions, though, it is taken up and nailed down in laws and regulations legislated separately. Russia is one of these jurisdictions where legality is named among counterterrorism principles.²⁵

Even though governments have declared themselves ready to comply with national laws, there is a practical trend today for them to depart from their allegiance to law point by point in the fight against terrorism as an expedient to enhance the efficacy of their counterterrorist activities. This author has identified areas of counterterrorist activities that are at odds with the rules of law:

- breach of the presumption of innocence;
- killing of terrorists as punishment for their actions;
- subjecting persons implicated in terrorism to torture;
- using repressions against the terrorists' relations; and
- involving agencies unauthorized by law in counterterrorist activities.

One of the basic points of the presumption of innocence is that the guilt of an accused must be stated in a determination of a competent court. In some countries, though, the laws go against the principle of the separation of powers and invest executive government agencies with authority to establish the guilt.

To give an example, Israel is one of these countries, where the executive branch of government rules whether an organization is unlawful or engages in terrorism. The Prevention of Terrorism Act and the Prohibition of Financing Terrorism, Law of the Israeli Defense (Emergency) Regulations body of laws and regulations vest decision-making powers in the Defense Minister,²⁶ Government,²⁷ and the Ministerial National Security Maintenance Commission.²⁸ A similar approach is followed in several other countries as well.

Killing terrorists as punishment for acts of terrorism they have perpetrated, rather than a measure to prevent or frustrate them, is a practice pursued by several law enforcement agencies and is going decades back. The most outrageous example of vengeance killing happened in 1984 when the Israeli General Security Service agents hunted down and killed the two terrorists who had hijacked a passenger bus shortly before.²⁹

Special interrogation (torture) methods are used by competent agencies fighting against terrorism around the world. Even though torture does not make front page news, information about it leaks out periodically into the open.

This was, for example, the way information about U.S. CIA agents using torture was leaked and published. The Committee Study of the Central Intelligence Agency's Detention and Interrogation Program, a report compiled by the U.S. Senate Select Committee on Intelligence (SSCI), writes that the CIA agents used

extraordinary investigation techniques (torture) against terrorism suspects.³⁰ The United States President said that the U.S. had abandoned this practice and had no intention to use it in the future.³¹

Accusations that Israel's General Security Service used torture during investigations have been made for a relatively long time already. Back in 1999, the country's Supreme Court found that some of the techniques used by investigators were unlawful and unacceptable. The unlawful techniques have continued right until now. Between 2001 and 2011, the Israeli government's legal counsel docketed over 700 complaints against torture used by the General Security Service's investigators, and yet no case was initiated to look into any of those complaints.³²

Repressive measures if used against the relations of persons implicated in involvement in terrorist activities can be lawful or unlawful, depending on the specificities of national laws and regulations. For example, the Defense Regulations (Emergency Period), a document of the Israeli legislative framework, authorizes the country's competent agencies to destroy the homes of the relations of persons involved in terrorist activities.

This option, though, is not anchored in Russian laws. It makes sense, for the current body of national laws and regulations to be rounded off, to be more conclusive on the need for repressions to be turned against relations of persons involved in terrorist activities.

Counterterrorist activities are carried out by agencies that are not duly authorized to engage in under the law. MOSSAD, for example, still remains outside the law. And yet, it is highly unlikely that a law will be passed any time soon to rein in this secret service.

The possibility for special services to conduct counterterrorist operations outside the law can, in our view, be lived with because of the mostly clandestine nature of their operations.

Counterterrorist operations conducted throughout or occasionally beyond the framework of law raise the issue of criteria being invoked of any forms of counterterrorism being acceptable and reasonable. It must first be a law – international or national – laying down what is and what is not acceptable in the life of society.

At a time when the rules of law are not set down to be followed, morality alone still can give some guidance. Morality, though, comes with a bias. Philosopher S.L. Frank prefaces his study "Friedrich Nietzsche and 'Love for the Distant One' Ethics" with a revelation that no single moral postulate exists to distinguish between what is good and what is bad.³³ If S. Frank's revelation is any guide, no clear line can be drawn between the admissible and inadmissible in the fight against terrorism.

This knotty problem is resolved according to the lights of a country's political system and moral guides of society. In either case, the sense of moral probity is mandatory for anyone to call another a terrorist and act accordingly.

The possibility of overriding the presumption of innocence, the killing of terrorists as punishment for the acts of terrorism they have committed, special treatment methods used against persons implicated in terrorism at the hands of interrogators, repression used against terrorists' relations, and involvement of agencies lacking lawful authorizations in counterterrorist operations give a significantly broader freedom of action to government agencies and can produce a positive effect in the short run. Their defiance of the law in violation of the most significant principles of the state and international community, however, is a factor that drives the conflict and terrorism used in it still deeper into the fabric of society and triggers new and still larger social conflicts.

Two conclusions follow from the identification and study of basic trends in the fight against terrorism.

- **First**, measures to eliminate the causes of differences and conflicts fraught with the threat of terror are the most effective and promising trend, because they help prevent and terminate the use of terrorism in different phases of a conflict under way; and
- **Second**, delegitimization of terrorism, its centralization, refusal to engage in political dialogue with terrorists, and constraints on information about the competent agencies' operations, some of them going beyond the law, are signs of emerging political mimicry. Terrorism and counterterrorism developing a shade of similarity point to their common origins as a tool of political warfare.

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Translated by Gennady Khmelev
