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THE ACTIVITIES

OF THE PROSECUTOR'S OFFICE TO SUPPRESS MASS RIOTS OF A TERRORIST ORIENTATION, ON THE EXAMPLE OF KAZAKHSTAN AND KYRGYZSTAN

LAS ACTIVIDADES DE LA FISCALÍA PARA SUPRIMIR DISTURBIOS MASIVOS DE ORIENTACIÓN TERRORISTA, EN EL EJEMPLO DE KAZAJSTÁN Y KIRGUISTÁN

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ABSTRACT

The article is devoted to the activities of the prosecutor's offices and law enforcement agencies in preventing mass disorders of a terrorist nature, based on materials from the Kyrgyz Republic and the Republic of Kazakhstan. The most acute and problematic issues of statistics related to crimes connected with terrorism are presented. Additionally, the article addresses problems in investigative practice and ways to solve crimes of a terrorist nature.

Keywords: Terrorism, methods, law, investigation, investigative agencies, prosecution, personnel, prevention of offenses, crime scene.

RESUMEN

El artículo está dedicado a las actividades de las fiscalías y los organismos encargados de hacer cumplir la ley en la prevención de disturbios masivos de carácter terrorista, basándose en materiales de la República Kirguisa y la República de Kazajstán. Se presentan las cuestiones más agudas y problemáticas de las estadísticas relacionadas con los delitos relacionados con el terrorismo. Además, el artículo aborda problemas en la práctica investigativa y formas de resolver delitos de carácter terrorista.

Palabras clave: Terrorismo, métodos, derecho, investigación, organismos de investigación, fiscalía, personal, prevención de delitos, escena del crimen.

INTRODUCTION

The fight against terrorism, as emphasized in the United Nations General Assembly resolutions of December 23, 2007, and September 15, 2008 (62/272 Global Counter-Terrorism Strategy) (United Nations General Assembly, 2008), must be characterized by determination and uncompromising commitment. Simultaneously, any use of force against terrorism must be carried out exclusively within the framework of international law while steadfastly upholding the fundamental rights and freedoms of individuals.

The battle against terrorism is universally condemned, and an unwavering struggle against this global menace takes on various forms and shades. One form of international terrorism involves the manipulation of large segments of the population through mass disturbances with a terrorist agenda.

The responsibility for preventing and eliminating mass disturbances of a terrorist nature falls on law enforcement agencies, particularly the Prosecution and the Ministry of Internal Affairs. It is imperative for Prosecution and law enforcement personnel to be dedicated to success and ensuring the security of the state (Minkovsky & Revin, 1999; Atabekov & Supataeva, 2017).

Therefore, attention must be directed towards the peculiarities of crowd psychology, psychological phenomena of mass disturbances, as well as tactical and psychological elements in preparing law enforcement personnel for actions against the prevention and elimination of mass disturbances with a terrorist agenda.

Various causes, including political motives, national animosity, provocation by organized crime, terrorist groups, protest against the actions of authorities, unsatisfactory social policies of the state, may underlie such situations. However, the occurrence of mass disturbances is not solely dependent on reasons; specific conditions, such as instability in a particular region, tension, economic decline, and uncertainty about the future among the population, may also play a role.

The behavior of a crowd often depends on its organizers or instigators, who are usually well-known individuals with strong willpower, an understanding of the crowd's mood, and the ability to lead people. However, this is not always the case, as a symbolic figure from outside the state may also act as a leader, and the crowd may ascribe qualities to them.

Crowds may not always fully comprehend the meaning of their actions. Emotions, experiences, and excitement

within a crowd may take an active direction, sometimes adopting a terrorist agenda.

Considering this, law enforcement officers engaged in preventing potential mass disturbances must control the crowd to prevent an increase in its numbers. This circumstance is also taken into account in the tactics for eliminating mass disturbances when the crowd is divided into several parts. Firstly, this ensures access to its center, where the active part is concentrated, and secondly, such division forms several isolated parts, reducing overall visibility for participants and, as a result, decreasing their activity.

In these cases, involvement in disturbances is often perceived by young people as a game and an opportunity for self-assertion in their own eyes and in the eyes of the surrounding community. It is not uncommon for such youth performances to be short-lived, beginning spontaneously and fading away. However, under certain conditions with external support, they can take on a prolonged nature, as demonstrated by the events of mass disturbances in January 2022. The General Prosecutor's Office of the Republic of Kazakhstan informed the public about the progress of the investigation, stating that mass disturbances and acts of terrorism occurred in cities such as Almaty, Shymkent, in the regions of Aktobe, Atyrau, Almaty, Zhambyl, Kyzylorda, East Kazakhstan, etc. (Wikimedia Foundation, 2022). Investigative bodies are handling 5,041 cases, including 49 criminal cases related to mass disturbances and 45 cases related to acts of terrorism. The statistics indicate that the main participants in the January 2022 events in Kazakhstan were youth.

MATERIALS AND METHODS

When considering the methodology for studying this issue, it is important to continually analyze the evolving situation, accurately assess the essence of what is happening, take into account the psychological peculiarities of the crowd, and anticipate the possible reaction of people to law enforcement actions. Therefore, it is primarily advisable to apply measures of influence that will not lead to negative consequences.

The methodology for studying this issue should be based on international documents, particularly the "Declaration on Measures to Eliminate International Terrorism" of the United Nations General Assembly 49/60 of December 9, 1994 (United Nations General Assembly, 1994); the Shanghai Convention "On Combating Terrorism, Separatism, and Extremism" (Shanghai, 2001) (Republic of Kazakhstan et al., 2001) (Ratified by the Law of the Kyrgyz Republic of April 10, 2002, No. 50), and others.

In the event of a threat of a serious conflict situation between participants in mass events with terrorist forces and law enforcement agencies responsible for public order, police officers under the supervision of the prosecutor's office must take all possible measures to avoid casualties among the civilian population and violent actions.

In practice, persuasion is usually applied in such cases, which can take various forms and means of influence. Persuasion is implemented through dialogue, appeals, clarification, negotiations, and preventive mediation at an early stage.

An appeal involves an oral request, an appeal by a law enforcement officer, or another representative of authority to the gathered citizens to observe the rules of behavior in public places and the established order of conducting mass events.

Constructive dialogue, when externally expressing a willingness to understand the demands of the conflicting party, is the main and most preferable weapon of non-violent actions. When the opposing party refuses dialogue, it is necessary to make efforts to restore it. For a more effective dialogue, it is necessary to show respectful attitude towards opponents, identify positive aspects in their position and demands, and be ready to openly acknowledge them. Such actions evoke sympathetic responses, reduce prejudice, and partially smooth the image of the "enemy" represented by law enforcement agencies (González, 2022; Solari, 2022; Pawelec, 2023).

During negotiations, representatives of law enforcement agencies should demonstrate maximum flexibility in achieving the necessary results. It is important to remember that in the presence of confrontation and opposing social and psychological attitudes, the "opponent" can move step by step towards conflict resolution with a positive result. Therefore, the police should not rush events if the situation is not extraordinary and should be prepared for a phased process.

In cases where dialogue and negotiations are irreversibly disrupted, resorting to mediation is advisable. These individuals must possess a set of necessary qualities. They should be genuine authorities for all parties, objective and consistent trusted individuals. The mediator must listen to both sides, try to find a compromise, and minimize contradictions. Reconciliation or renunciation of violent actions should be the ultimate result. As mediators, well-known athletes and artists, popular public leaders, religious figures, and sometimes authorities of the criminal world are usually involved.

In cases where the method of persuasion fails to achieve the goal, as well as during unorganized, spontaneous actions of an aggressive nature, accompanied by the threat of violent actions from the crowd, the tactics of law enforcement actions should be different. Global practice in dealing with terrorism has shown that there is no point in negotiating with terrorists. In such a situation, the application of various measures of coercive influence within the framework of existing legislation is justified. The main conditions for the activities of law enforcement entities should be activity, interception of initiative, aggressiveness while adhering to the principle of causing minimal physical, moral, and material harm to citizens

RESULTS AND DISCUSSION

The conducted research serves as a fundamental basis for drawing conclusions, justifying specific scientific concepts, and providing concrete practical recommendations aimed at improving the theory and practice of disclosure, investigation, and prevention of crimes related to terrorism.

The public danger arising from acts of terrorism, such as explosions, arson, or other actions that pose a risk to human lives or result in severe consequences, with the intent to intimidate the population and disrupt public safety, is governed by Article 252 of the Criminal Code of the Kyrgyz Republic (Supreme Council of the Kyrgyz Republic, 2021).

Creating a genuinely widespread atmosphere of fear is more likely to occur from an explosion or the threat of one. Article 258 of the Criminal Code of the Kyrgyz Republic addresses the seizure of buildings, structures, transportation and communication means, or other communications, coupled with the threat of their destruction or damage, or the threat of killing citizens or causing harm to their health, to coerce a state or other entity, legal or physical person (group of persons) to commit or refrain from committing a certain action as a condition for non-compliance with the threat. The penalty for such offenses includes imprisonment for a term ranging from five to eight years with the confiscation of property.

Furthermore, the analysis of sources, forensic and legal literature devoted to the interpretation of terrorism and the Criminal Code of the Kyrgyz Republic, allowed for the differentiation of the composition of the crime qualifying under the Criminal Code from offenses with a terrorist orientation. This led to the identification of its criminal-legal characteristics, including: Article 253 - Financing of terrorist activities; Article 254 - Assistance to terrorist activities; Article 255 - Public calls for the implementation of

terrorist activities; Article 256 - Participation of a citizen of the Kyrgyz Republic in armed conflicts or military actions on the territory of a foreign state or undergoing training for the commission of a terrorist act; Article 257 - Hostage-taking; Article 259 - Knowingly false reporting of a terrorist act.

The public danger associated with the interpretation of terrorism allowed for the differentiation of the composition of terrorist-oriented crimes, which are qualified based on:

The object of the crime - public safety, life, health, property of individuals, public and state property.

Its objective and subjective sides - the mandatory combination of informational and physical actions not only with direct intent but also with a pre-planned purpose of action and a specific motive.

The subject of the crime - a mentally sound person who has reached the age of 14.

In summarizing the criminal-legal characteristics, another significant aspect emerges - crimes against public order, specifically Article 278 of the Criminal Code of the Kyrgyz Republic, which addresses mass disorders and involves "Organizing mass disorders accompanied by violence, pogroms, arson, destruction of property, the use of firearms, explosives or explosive devices, or armed resistance to a representative of authority, punishable by imprisonment for a term of seven to ten years."

In connection with this, some data on criminal cases related to mass disorders and measures taken by the Prosecutor's Office of the city of Taraz, Republic of Kazakhstan, referred to as "Protests in Kazakhstan," are presented: From January 4 to 7, 2022, in the city of Taraz, as a result of mass disorders associated with the seizure of government institutions, looting, and destruction of property, 9 buildings of state institutions, 152 official and 31 private vehicles were damaged, causing damage exceeding 6.4 billion tenge. 221 individuals, including 109 law enforcement officers and 112 civilians, sought medical attention for various injuries.

For violations of the state of emergency, 1587 individuals were detained, of which 609 were held administratively responsible (590 under Article 476, paragraph 1, subparagraph 10 of the Code of Administrative Offenses, and 19 under Article 488, paragraph 6 of the Code of Administrative Offenses (Parliament of the Republic of Kazakhstan, 2014b). 177 individuals were subjected to administrative arrests (5 to 10 days), 374 individuals were warned, and 56 individuals were fined. The remaining 978 individuals were informed of the norms of current legislation.

General information on criminal cases in the Republic of Kazakhstan is as follows: 165 criminal cases were investigated by an interdepartmental investigative-operational group led by prosecutors, while the remaining 320 cases were investigated separately. There are 9 individuals (declared completed, at the stage of familiarization) in the process of investigation by the interdepartmental investigative-operational group. In the case of 1 individual (Nalibaev B.), the criminal case was terminated due to an act of amnesty. The interdepartmental investigative-operational group (MCOG) sent 25 cases to court against 125 individuals, and as of today, 101 individuals (including 85 through conciliation) have received guilty verdicts, with 7 individuals sentenced to actual imprisonment, 90 individuals sentenced to conditional terms, and 4 individuals subjected to restrictions on freedom. There are 24 individuals (6 deceased, 18 alive) at the trial stage. 26 individuals are held in pre-trial detention facilities (10 under the jurisdiction of the investigating authorities, 16 under the jurisdiction of the court).

The anti-corruption service of the region initiated 44 pre-trial investigations under Article 146, paragraph 2 of the Criminal Code (torture) (Parliament of the Republic of Kazakhstan, 2014a), of which 43 were terminated due to lack of evidence, and 1 is still in progress.

Information on damage: 7 buildings of state institutions (3.9 billion tenge) were damaged as a result of the disorders. Additionally, 31 business objects were affected, with damage totaling 148.2 million tenge. 11 meetings of the Regional Commission were held, approving 16 applications from entrepreneurs and disbursing 92.4 million tenge. There were 15 registered EDRs, including 14 under Article 188 of the Criminal Code (theft) and 1 under Article 191 of the Criminal Code (robbery) (Parliament of the Republic of Kazakhstan, 2014b). Of these cases, 20 individuals were brought to court, with 17 individuals convicted.

Information on weapons: 840 weapons (635 service and 205 civilian) and over 60 thousand rounds of ammunition were stolen from police units (DP, UP, OP-1, USSO). As of today, 371 weapons and over 22 thousand rounds of ammunition (22,841 units) have been seized, while 469 weapons (361 service, 108 civilian) remain in illegal circulation.

The term "terrorism" entered everyday language during the French Revolution (1793-1794) and originally meant "the reign of terror." Subsequently, the term acquired a broader interpretation, signifying any system of governance based on fear. Interestingly, Jacobins often used this concept orally and in writing to describe themselves,

always with a positive connotation. However, after the 9th Thermidor, the term “terrorist” took on a derogatory meaning, becoming synonymous with “criminal.”

Renowned Russian criminologists G.M. Minkowski and V.P. Revin argue that the concept of terrorism encompasses actions motivated by various factors such as greed, revenge, economic competition, irrationalism of the mentally ill, etc. They believe that traditional definitions of terrorism focusing solely on political motives hinder understanding the true extent of the phenomenon and impede effective strategies to combat it.

It is noteworthy that out of 68 Roman emperors, 32 met their demise due to conspiracies and terrorist acts,” claims Major General N.I. Cherginets. Systematic terrorist actions as a means to achieve political goals began in the second half of the 19th century, encompassing both nationalist and pure political terrorism.

In the late 19th century, Irish terrorists emerged, leveraging the grievances of Ulster peasants against the government’s land policies. Initially, their tactic of open armed resistance suffered a devastating defeat. However, in the 70s and 80s of the 19th centuries, the activities of the so-called “dynamiters” were marked by high-profile incidents like mass murders in Phoenix Park. New waves of terrorism among Irish nationalists occurred before World War II and later in the 70s of the 20th centuries.

As noted by W. Lacker, in the United States, terrorism found adherents in the labor movement, such as the “Molly Maguires” and later the Western Miners’ Union. A significant episode in American terrorism history was the bombing of Haymarket Square in Chicago. Nevertheless, the terrorism of that time in the United States aimed at narrow goals of intimidation and warning, without attempts to overthrow the government or change the political system.

In the 1930s and 40s, extremist right-wing organizations, such as the “Muslim Brotherhood” and “Young Egypt,” embraced terrorism. In Palestine, Zionist organizations like “Irgun” and “LEHI” also employed the tactic of individual terror. In India, the terrorist group “Bhagat Singh” gained unexpected popularity in the 1920s, despite the country’s traditional aversion to violence.

According to the prevailing scientific opinion today, the political systems in Germany and the Soviet Union before World War II were typical party dictatorships or political terrorism. Antonyan (2001), argues that terrorism in Germany was necessary to impose order. In both cases, terrorism served as a method to solve various problems and assert and defend dictatorship.

The surge in terrorism during those years was influenced by the complex global situation. Attempts to build a just society through peaceful, democratic means yielded little success, leading many political movements to turn to terrorism.

In response, the global community had to intensify its fight against terrorism and enact several anti-terrorism agreements. Many countries established specialized units to combat terrorism, developed legal classifications of this type of international crime (ideological, nationalist, religious, criminal, economic terrorism, technical, biological, nuclear, cyberterrorism, etc.), and placed significant importance on the legal framework and methods to counteract this phenomenon, created by humanity itself.

A crucial condition for combating terrorism, extremism, and similar offenses is determination, uncompromising attitude, and the severity of counteractions, along with the presence of well-trained, well-drilled, technically well-equipped, and equipped special units. However, this is not enough. Often, the presence of political will and the readiness of the country’s top leadership for decisive actions are more important. In this regard, one can cite the example of Russia, where the country’s leadership lacked the political will to punish terrorists responsible for the massacre that claimed the lives of 150 civilians in Budennovsk (Lutovinov & Morozov, 2000).

CONCLUSIONS

Crossing the threshold of the third millennium, the global community faced an unprecedented wave of terrorism in terms of its scale. It engulfed virtually all countries worldwide, making terrorism a real threat to the safety of citizens.

International terrorism is an armed non-state destructive force that challenges even the superpowers of the world. It opposes constitutional structures, demoralizes society, and aims to destabilize the situation in regions and states.

Currently, in various regions of the world, terrorist and extremist groups have organized and perfected a complex network of underground structures, weapon depots, and explosive materials. As a cover for terrorist organizations, a system of firms, companies, banks, and funds has been created. The leadership of terrorists enhances efforts to infiltrate into civil organizations and state structures with the aim of recruiting agents, gaining control over the political, economic, and social spheres of society, and exerting influence on them (Sobolev, 2002).

The most widely used forms of interaction with public formations participating in law enforcement practices include:

Exchange of information on the state of public order and public safety. This information is necessary for determining the current tasks in preventing and combating offenses related to terrorism.

Joint planning and implementation of activities to ensure the protection of public order and public safety, as well as preventing and combating offenses.

Forwarding case materials on offenses to public formations for consideration and taking appropriate measures of public impact against offenders.

Cooperation of citizens with the Prosecutor's Office and law enforcement agencies in maintaining law and order on a contractual and remunerative basis through the funds of internal affairs bodies.

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