

INVESTIGATING TERRORISM ACTS

IN KYRGYZSTAN AND KAZAKHSTAN: THEORY, PRACTICE, AND METHODOLOGICAL INSIGHTS FROM THE PRACTICE OF INVESTIGATIVE BODIES OF THE PROSECUTOR'S OFFICE

INVESTIGACIÓN DE ACTOS TERRORISTAS EN KIRGUISTÁN Y KAZAJSTÁN: TEORÍA, PRÁCTICA Y PERSPECTIVAS METODOLÓGICAS DE LA PRÁCTICA DE LOS ÓRGANOS DE INVESTIGACIÓN DE LA FISCALÍA

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Suggested citation (APA, seventh ed.)

Nauatov, Z., Smatov, Z. Ismanov, T. & Kulalieva, G. (2024). Investigating terrorism acts in Kyrgyzstan and Kazakhstan: theory, practice, and methodological insights from the practice of investigative bodies of the prosecutor's office. *Universidad y Sociedad*, 16(2), 517-523.

ABSTRACT

This article offers a comprehensive analysis of the challenges encountered in both theory and practice within the methodology of investigating acts of terrorism, drawing upon insights from the contexts of the Kyrgyz Republic and the Republic of Kazakhstan. Through an examination of statistical data, the article highlights the most acute issues associated with terrorism. Theoretical and methodological frameworks utilized by investigative bodies within the Prosecutor's Office are considered, offering valuable insights into strategies aimed at effectively disclosing terrorist-related crimes. Additionally, the article highlights recommendations derived from these approaches, which play a pivotal role in enhancing the capacity to combat terrorism within the legal systems of these nations. This study contributes to a deeper understanding of the complexities involved in investigating terrorism and informs efforts to strengthen counterterrorism measures in the Kyrgyz Republic and the Republic of Kazakhstan.

Keywords: Terrorism, investigative bodies, prosecutor's office, crime scene, emergency.

RESUMEN

Este artículo ofrece un análisis exhaustivo de los retos teóricos y prácticos a los que se enfrenta la metodología de investigación de los actos de terrorismo, basándose en los contextos de la República Kirguisa y la República de Kazajstán. Mediante un examen de datos estadísticos, el artículo pone de relieve los problemas más agudos asociados al terrorismo. Se examinan los marcos teóricos y metodológicos utilizados por los órganos de investigación de la Fiscalía, lo que ofrece valiosas perspectivas sobre las estrategias encaminadas a revelar eficazmente los delitos

relacionados con el terrorismo. Además, el artículo destaca las recomendaciones derivadas de estos enfoques, que desempeñan un papel fundamental en la mejora de la capacidad para combatir el terrorismo dentro de los sistemas jurídicos de estas naciones. Este estudio contribuye a una comprensión más profunda de las complejidades que entraña la investigación del terrorismo y sirve de base a los esfuerzos por reforzar las medidas antiterroristas en la República Kirguisa y la República de Kazajstán.

Palabras clave: Terrorismo, órganos de investigación, fiscalía, lugar del delito, emergencias.

INTRODUCTION

Usually, the investigation of a criminal case related to terrorism committed using an explosive device or via another method chosen under conditions of uncertainty begins with the dispatch of an investigative-operational group to the scene. Therefore, optimal coordination of actions among members of the investigative-operational group, combining investigative actions and operational-search measures, becomes of paramount importance. Their interaction in conducting urgent search actions boils down to the following:

- Ensuring mutual exchange of express information, determining methods, means, and deadlines for its transmission;
- Providing mutual assistance with available forces and means;
- Joint participation in carrying out searches or blocking operational search measures and investigative actions;
- Allocating responsibilities for each participant was based on a strict delineation of powers.

During investigative actions, the investigator usually becomes the subject in control of the entire organizational system of interacting law enforcement officers of the internal affairs agency due to procedural powers.

However, in particularly dangerous crimes of a terrorist nature:

The Prosecutor, in order to protect the individual, his life, rights, and freedoms as the highest values of the state... coordinates the activities of law enforcement and other state bodies to ensure legality, public order, and the fight against crime. (Parliament of the Republic of Kazakhstan, 2022).

The most complex investigative actions taken by the Prosecutor's Office, which require the clear interaction of units from various agencies (the Ministry of Internal Affairs, National Security Committee, Ministry of Defense, Emergency Situations Ministry, Ministry of Health, etc.), are complicated by several factors. Practically, in all cases, the actions of terrorists are active and manifest in armed attacks, hostage taking, hijacking of vehicles, explosions, etc. These active actions have led to significant changes in the surrounding environment. Moreover, numerous material traces at crime scenes require extensive, painstaking, and prolonged work by officers to discover and document them.

The coordination of the prosecutor's activities in this work creates prerequisites for the fullest compliance with the requirements of criminal procedural law regarding the identification and fixation of traces of the crime and the collection of maximum evidentiary information, enabling quick and complete disclosure of the crime. "The effective realization of these goals is facilitated by clear organization and scientifically substantiated sequence of conducting a complex of urgent investigative actions by the investigator" (Selivanov, 1998, p. 57). Additionally, the factual data obtained during this process allow the prosecutor to propose well-founded hypotheses, determine methods of verification, and identify individuals among whom the perpetrator must be sought.

METHODOLOGY

In methodological terms, let us consider the issues related to the organization of forensic support when inspecting the scene of an emergency as a primary and crucial investigative action. Resolving these issues will enhance the effectiveness of inspecting the site of a terrorist act. We have identified the following problems:

- Issues of initial action for forensic support at the initial stage of inspecting the scene of the incident.
- Problems related to the use of tactical techniques and technical means for detecting, recording, and collecting traces of criminal activity.
- A rational algorithm of actions for individuals involved in the disclosure and investigation of terrorist crimes, based on the peculiarities of working at the scene of an emergency.
- Main issues concerning preliminary investigations at the site of a terrorist act.

Let us proceed to analyze the main principles of this investigative action. The inspection of the scene of an emergency as the immediate perception process by the

investigating subject of the situation with signs of a crime is a unique and comprehensive investigative action. Its characteristics include:

- An investigative action can be conducted before initiating a criminal case.
- The most “urgent” investigative action is carried out immediately upon receiving information about the emergency.
- The most informative investigative action allows us to obtain maximum information about the crime, its causes, and the perpetrators at the beginning of the investigation.
- Often, all investigative actions are most dangerous, as they may involve risks such as explosions, radiation or chemical contamination, collapses, flooding, and other phenomena.
- The most “delicate” investigative action, such as investigators, detectives, operational personnel, forensic specialists, explosive experts, and other participants, must work when high-ranking officials from various agencies arrive at the scene of the incident. These officials, while not experts in crime scene inspection, feel obligated to issue (often conflicting) instructions and rush to report to higher authorities without considering the preservation of evidence.
- Most often, an irreversible (nonrepeatable) investigative action, such as a repeat inspection, involves examining the scene with altered physical conditions due to unqualified work during the initial inspection.
- Extensive knowledge is needed in various fields of science and technology, necessitating the study of technological documentation, instructions, guidelines, and rules for storing and transporting various materials, especially hazardous (explosive) and special (nuclear, chemical, and biological weapons) cargoes.

Inspection of the scene of a terrorist incident requires clear organization, strict sequence, and high qualification of the personnel involved. A skillfully conducted inspection contributes to the disclosure of a terrorist action, making the success of the entire investigation largely dependent on its quality. Conversely, an unqualified or careless inspection usually leads to serious crimes remaining unsolved.

The preparation for this investigative action is of paramount importance. The inspection begins immediately after receiving a report or signal about a terrorist manifestation. The leader of the investigative-operational group evaluates the initial information about the incident, organizes the group's work and interaction with representatives of other law enforcement and administrative agencies and communal services, and makes decisions regarding active actions with suspicious items and explosive devices to guide

the work of specialists. In the absence of specialists with the required profile or qualifications, measures are taken to involve necessary experts; organize the conduct of urgent investigative actions; instruct operational personnel on conducting operational and investigative measures; and, with the consent of the senior officer, appoint an employee responsible for contacts with representatives of the mass media; additionally, act as the senior operational chief for the entire personnel of the group and additionally, assign operational staff and specialists.

DEVELOPMENT

All of these issues require a quantitative and qualitative analysis of terrorism to ensure the completeness and reliability of the results of this dissertation research.

A qualitative analysis of the statistical picture of terrorism requires the selection of a sample for analyzing terrorism indicators that allows us to comment on this phenomenon dynamically and consider its interconnections.

The first indicator is the number of acts of terrorism, considered both within the system of other violent crimes and independently. The second indicator is the number of individuals committing acts of terrorism; additionally, the classification of such individuals and their typology. The third indicator is the number of victims of acts of terrorism, with a special focus on victims whose behavior was victimized.

The fourth indicator is data on the causes and conditions of terrorism, which are commented upon within the framework of social contradictions, conflicts, and other phenomena and processes. The fifth indicator includes information on the motives and methods of committing acts of terrorism, considered alongside the study of the criminal's personality and the specifics of their behavior.

The sixth indicator includes data on the situations and situational nature of terrorism related to the reasons and conditions of the crime, motive, and method of the act.

The seventh indicator includes information characterizing the consequences of terrorism and the damage, harm, and injury it causes.

A comprehensive analysis of all these indicators, linked to other data (location, time of committing acts of terrorism, etc.), using reliable figures to obtain calculated indicators is necessary in accordance with the requirements of qualitative analysis (Pachar, 2018; Meintjes-van der Walt & Dhliwayo, 2021; Mafla & Biel-Portero, 2021).

Violent crimes, considered in a general sense, occur in various spheres of people's lives and activities. This applies fully to terrorism. The objects of aggression in violent crimes are different categories of individuals, characterized

differently by both the perpetrators and the victims. In each sphere, there are unique relationships, victims, and specific causes and conditions. Two spheres are particularly highlighted: the sphere of public safety in a broad sense and the sphere of state power, also in a broad sense. The so-called other spheres, to which 82% of crimes are attributed, remain beyond 15% to the sphere of public safety and 3% to the sphere of state power. Other violent crimes are distributed in approximately the same proportions among these spheres. The characterization of the latter depends to some extent on the sphere in which the crimes are committed.

Examination and analysis of statistical information reveal that in the sphere of public safety, which includes all manifestations of terrorism, 0.7% of terrorist acts are committed (Article 252 of the Criminal Code of the Kyrgyz Republic), and in the sphere of state power, 0.3% (Chapter 33, Articles 255, 256, 258, 261, 265, 327, 252, 253, 257, 262, 264, 326, 327, 329, 408, 416 of the Criminal Code of the Kyrgyz Republic) (Jogorku Kenesh of the Kyrgyz Republic, 2021) (Chapter 10, Article 255 of the Criminal Code of the Republic of Kazakhstan) (Parliament of the Republic of Kazakhstan, 2014). However, in the latter case, that is, the second case, it is a traditional attack on the life of a state or public figure, albeit with an increase in armament, and in the first case, regarding the sphere of public safety, these acts of terrorism are accompanied by murder, causing serious harm to health, and some other violent crimes.

The fight against terrorism, as emphasized in the resolution of the United Nations General Assembly of September 17, 2001, must be resolved and uncompromising. At the same time, any force actions directed against terrorism must be carried out exclusively within the framework of international law, with unwavering respect for human rights and freedoms.

Currently, in various regions of the world, terrorist and extremist groups have organized and perfected networks of underground structures, warehouses of weapons and explosives. As a cover for terrorist organizations, a system of firms, companies, banks, and funds has been created. The leaders of terrorist organizations are improving their efforts to penetrate public and state structures with the aim of recruiting agents, gaining control over the political, economic, and social spheres of society, and influencing them.

According to criminologists, it is expedient to study crimes that are similar in nature both independently and in comparison with each other (including crimes of a terrorist nature). When analyzing the causes of criminality, crimes,

and criminals, it is not possible to unequivocally distinguish terrorist crimes; however, it is reasonable to study them within the framework of other crimes that are similar in nature. Specifically, this paper involves a comprehensive analysis of terrorism focused on studying criminal violence, with systemic analysis as its foundation.

This discussion has led scholars to recognize the necessity of sociological research within criminology. Studying the “external environment” of crime as a sociolegal phenomenon is important, as it prompts an analysis of social and moral norms, the psychological nature of personality, and criminal behavior.

A comprehensive classification of the forms and varieties of terrorism is proposed in the brochure “Terrorism - a Global Problem of Modernity” by Zamkovoy & Ilchikov (1996). They distinguish paired variants of this activity based on the principle of dichotomy: revolutionary and counterrevolutionary terror, subversive and repressive terror, physical and spiritual terror, “selective” and “blind” terror, as well as “provocative,” “preventive,” military, and criminal terror. The authors rightfully differentiate between the concepts of “terrorism” and “terror.”

French terrorism researcher Laurent Dispo, in the book “The Terror Machine”, suggested identifying oppositional right-wing terrorism, state left-wing terrorism, state right-wing terrorism, and oppositional left-wing terrorism. He also includes another category, national-liberation movements, representing a different aspect of terrorism.

Some researchers classify terrorism into various types: sociopolitical terrorism, which can be divided into right-wing and left-wing branches; ethno-political terrorism; religious terrorism, which can include clerical-fundamentalist terrorism; and separatist terrorism, which may have a national or religious character or be both national and religious.

There are attempts to classify terrorism by proponents who have an extremely broad understanding of this phenomenon. For instance, Odessky & Feldman (1997); propose a classification of “terrors” into the following: 1) individual terror – political assassinations carried out by “terrorists” conspiring to seize power amid the escalation of the “hysteria of disobedience”; 2) mob terror – the use of organized groups modeled on “criminal mobs” to seize or maintain power; and 3) state terror – “state repression conducted as preventive intimidation amid the escalation of the “solidarity hysteria” with the government. However, from a criminological perspective, it might not be entirely accurate to equate individual terror with “mob terror”—mass disorders—or even less so with “state terror”—mass-sanctioned and institutionalized repression. Similarly, Boyar-Sozonovich (1989), writes about three

main types of terrorism: 1) state terrorism, or terrorist actions carried out by the state or with state support; 2) group (or organized) terrorism, or terrorist actions carried out by groups or organizations of private individuals without state support, including both “left” and “right” terrorism, as well as national-ethnic, confessional, etc.; and 3) spontaneous (individual) terrorism, or terrorist actions carried out by private individuals. Clearly, the first type of terror may not be terrorism but rather state repressive terror. The approach of Odessky & Feldman (1997); and Boyar-Sozonovich (1989), is an example of the confusion of nonidentical phenomena and the blurry distinction of concepts.

In Kyrgyzstan and Kazakhstan, terrorism has undergone a sharp change. Criminal terrorism has taken the forefront, driven by purely selfish motives. Nationalist terrorism, advocating the idea, of national self-determination, has also emerged and gained widespread prevalence. Purely political terrorism has clearly lost its dominant position, occupying a minor place in the structure of terrorist activity within Kyrgyzstan. The main problem in classifying terrorism, as indicated by the comparison of those mentioned above, seems to be that authors often do not distinguish between the primary and facultative criteria for classification, i.e., they do not separate the main and optional features.

At the same time, P. Wilkins writes that when developing a typology of terrorism, it is unnecessary to consider criminal terrorism (alongside physical terror and wartime terror), which he defines as the systematic use of terror acts for personal financial gain. Objectively, all these actions, regardless of the will and subjective motives and goals of their perpetrators, create significant resonance; pose an enormous threat to the health, life, and property of an indefinite circle of citizens; and are directed against public safety and tranquility. They sow panic and fear in society, fostering a sense of permanent concern for oneself and one’s loved ones, destabilizing the sociopolitical situation, and instilling a belief in the authorities’ and law enforcement’s inability to maintain law and order.

In recent decades, the term “narcoterrorism” has emerged. According to the authors of the study “Fundamentals of Combating Organized Crime” (Ovchinsky et al., 1996), despite the differences in means and goals between criminal and terrorist organizations, there is an increasing tendency toward their merger, which may become irreversible. Another contributing factor is the willingness of criminal organizations to establish direct connections with groups resorting to mass violence for political purposes. Technological interests, particularly the theft of materials conducive to the mass destruction of people, also

contribute to their merger. The line between ideological and criminal terrorism has become increasingly blurred. This is an objective process of its development.

The success of such groups’ activities is largely determined by informational and propaganda support. Therefore, based on this foundation, one can also identify informational terrorism, which boils down to the massive use of all types of media to influence public opinion in the terrorists’ desired direction and to prepare favorable psychological ground, sowing panic and fear.

Without modern mass media and a global communication network, terrorism will be inconceivable. Terrorists have always relied on media services; this is essentially the essence of publicizing the results of their activities, counting on a psychological effect. However, terrorists of the past, even three or four decades ago, did not have even a small fraction of the possibilities available to their present followers.

Thus, the most significant aspect in the process of forensic support for the core set of investigative actions, in our opinion, is the analysis of the reasons for shortcomings. These include the following:

- Inconsistent prioritization of certain actions by law enforcement officers in the forensic support of investigative actions is considered not as a crucial element in the system of the specified fight but as auxiliary.
- There is a lack of a targeted, well-founded program for forensic improvement and rearmament of law enforcement agencies in addressing the tasks of combating terrorism.
- Inconsistency of reformation plans regarding the improvement of the efficiency of forensic support for the investigation of crimes related to terrorism, with the real financial, technical, and social capabilities of the law enforcement system of our society.

CONCLUSIONS

Three interconnected groups of reasons for terrorism should be identified: constant, temporary, and current; the modern determination of terrorism is based on the crisis of economic decline and the breakdown of established socioeconomic and political systems (hence the criminal nature of terrorism and almost complete identity of its causal complex with a similar characteristic of organized crime); and from the perspective of overcoming this type of criminal activity, the current situation is highly unfavorable and uncertain. This is directly related to the prospect of overcoming the extremely complex situation in which our state and its institutions currently find themselves.

The overall criminogenic situation is characterized by a) an increase in criminal activity and resistance from criminal communities aimed at destabilizing the order of public life (according to a conducted survey, 12% of law enforcement officers pointed to this factor); b) the emergence, development, and establishment of institutions of mercenaries and professional killers ("killers"); c) the involvement of citizens in armed conflicts; d) penetration into the territory of Kyrgyzstan by foreign actors of extremist terrorist organizations; and e) terrorist activities inspired and conducted by the intelligence agencies of foreign states near and far abroad.

In relation to the studied problem, three types of personalities mentioned in the criminological literature can be discussed: the particularly malicious criminal, the malicious criminal, and the unstable criminal.

The first group included unstable terrorists. These individuals constitute approximately 12% of the total number of individuals. Usually, they commit crimes for the first time but have committed previous offenses and immoral acts. These individuals have connections with previously convicted individuals, leading to a criminal lifestyle. They often abuse alcohol and drugs. The guilty parties usually repent their actions. The participants were mainly male individuals—students, students, employees, workers, and military personnel. Of this category of criminals, 18% are demobilized from the army, refugees, and migrants.

The second group included malicious terrorists. They make up approximately 81%. These are mainly professional criminals. Among them, 64% were repeat offenders (individuals previously convicted), and 35% had committed five or more offenses (remaining unsolved) before being exposed (banditry, extortion, murder). Their behavior is persistently antisocial, expressed in a firm commitment to committing crimes. Many abuse alcohol and drugs. The overwhelming majority adhere to criminal traditions and customs. They actively involve new people in criminal activities.

The criminal orientation of 76% of these individuals is crimes against public order; however, these crimes are often associated with various forms of criminal violence. The main motive for their crimes is revenge, and the main motive is violence. The crimes and their consequences are often associated with cruelty. Criminals of this type are social outcasts, morally deformed, and spiritually depleted individuals. Usually, they are representative of the marginal environment (Chalidze, 1990).

The third group included particularly malicious terrorists. These individuals are recognized as special criminals. They constitute approximately 7%. By nature, they are

arrogant, despotic individuals trying to outwardly present themselves as champions of justice. In particular, malicious criminals are characterized as leaders. For them, "leader" is a title, a designation defining their position in the criminal world. Among them are many repeat offenders and particularly dangerous repeat offenders.

REFERENCES

- Boyar-Sozonovich, T.S. (1989). Problems of the classification of modern terrorism. Patrice Lumumba Friendship University of the USSR State Committee for People's Education.
- Chalidze, V. (1990). Criminal Russia. SP "Terra".
- Jogorku Kenesh of the Kyrgyz Republic. (2021). Criminal Code of the Kyrgyz Republic of October 28, 2021 No. 127 (as amended by the Laws of the Kyrgyz Republic of January 18, 2022, No. 4, April 1, 2022, No. 22, June 16, 2022, No. 45, and June 30, 2022, No. 51). <https://cbd.minjust.gov.kg/112309?refId=1283364>
- Mafla, A. C., & Biel-Portero, I. (2021). Lip print: a humanitarian forensic action. *Revista Facultad de Odontología Universidad de Antioquia*, 33(1), 96-106. <https://doi.org/10.17533/udea.rfo.v33n1a8>
- Meintjes-van der Walt, L., & Dhliwayo, P. (2021). DNA Evidence as the Basis for Conviction. *Potchefstroom Electronic Law Journal (PELJ)*, 24(1), 1-35. <https://dx.doi.org/10.17159/1727-3781/2021/v24i0a8537>
- Odessky, M., & Feldman, D. (1997). Poetics of terror and the new administrative mentality: Essays on the history of formation. RGGU.
- Ovchinsky, V.S., Eminov, V.E., & Yablokov, N.P. (1996). Fundamentals of combating organized crime. INFRA-M.
- Pachar Lucio, J. V. (2018). La participación del médico forense en la escena del crimen. *Medicina Legal de Costa Rica*, 35(1), 102-114. http://www.scielo.sa.cr/scielo.php?script=sci_arttext&pid=S1409-00152018000100102&lng=en&lng=
- Parliament of the Republic of Kazakhstan. (2014). Criminal Code of the Republic of Kazakhstan of July 3, 2014 No. 226-V (with amendments and additions as of September 12, 2023). <https://adilet.zan.kz/rus/docs/K1400000226>
- Parliament of the Republic of Kazakhstan. (2022). Constitutional Law of the Republic of Kazakhstan of November 5, 2022 No. 155-VII "On the Prosecutor's Office" (with amendments and additions as of September 12, 2023). <https://adilet.zan.kz/rus/docs/Z2200000155>
- Selivanov, N.A. (1998). Handbook for the Investigator: Investigation of crimes of increased public danger. Liga Razum.

Zamkovoy, V.I., & Ilchikov, M.Z. (1996). Terrorism - A global problem of modernity. Institute of International Law and Economics.