

Book Review

Josef Blahož *et al.* (2009)

Democracy and Issues of Legal Policy in Fighting Terrorism: A Comparison

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The topic of this monograph is of international importance and provokes broader discussion about the issue. It is therefore encouraging that the authors succeeded in avoiding a one-sided perspective and fittingly chose a multidisciplinary investigation into the phenomenon of terrorism and the legal politics of fighting it from the viewpoints of constitutional, international and European law. Criminal law issues were also considered, as well as basic premises of legal theory and the economic, political and sociological aspects of the war on terrorism in a globalised world. The monograph is “not just practical research into the best methods of physically annihilating terrorists and their organizations, but primarily looks into how social environments give rise to terrorism, and what social environment we should create or participate in creating in order to prevent the formation of terrorism” (J. Blahož). Geographically, the study focuses on the *ratione loci* and social environment of Euro-American civilisation, which in this context includes the USA, Canada, the EU, Israel, Australia and New Zealand.

The monograph begins with a study by the editor and the leader of the project, Josef Blahož. The opening chapter of the monograph, titled “Democracy and Theoretical Issues of Legal Politics in Fighting Terrorism”, sets the tone for the whole volume, posing a series of key questions to grasp the whole field and defining basic terms. Blahož makes a strong argument about the choice of name for this phenomenon: global political terrorism. He tries not to identify this term with those used in international instruments and scientific literature, such as international terrorism or terrorism containing an international element (p. 25).

The parts devoted to the author’s reflections on the future development of global political terrorism and on the causes of this serious political phenomenon are especially valuable and exceed the framework of a strictly juristic study. Along these lines, Blahož successfully expands on the theory of comparative researcher and political scientist Johan Galtung and arrives at some convincing conclusions about the reasons for global terrorism (p. 47). As for the legal tools and procedures in the fight against global terrorism, Blahož differentiates between those adopted and implemented in accordance with the constitution and the legal order (without resorting to a declaration of a state of emergency), and those adopted as a result of the declaration of an emergency, under which certain constitutional provisions are suspended. Blahož handles these parts of the study masterfully. He emphasises that even under limited constitutional effectiveness, the principle of human and civil rights or the principle of fundamental rights and their guarantees are different from other constitutional principles. This is due to the variability

of the category of human and civil rights influenced by current threats to civilisation. The author believes that the relationship between the legal politics of the fight against global terrorism and certain individual rights (which form the core of human rights, *e.g.* the right to life, personal integrity, etc.) requires that the principle of proportionality be upheld.

The following chapter by Jan Večeř focuses in a well-researched and in-depth way on the economic and financial aspects of the fight against terrorism in a globalised world ("Economic and Financial Aspects of the Fight against Terrorism in a Globalized Society"). The concept of this part of the monograph is extremely interesting and original. It builds on the notion that modern terrorism develops from a particular economic background, while the current scientific and technical revolution is based on booms in the following five sciences: particle physics, chemistry, biology, cybernetics and cosmology. Each of these disciplines brings information that can be used in the fight against terrorism, but many of these technical and technological advances (such as biological weapons, mobile phones, and night vision equipment, etc.) can also be used by terrorists.

The third chapter, titled "Democratic Constitutionality and Anti-Terrorist Measures", by Karel Klíma who has focused on a comparative analysis of constitutional law. In this chapter, the author compares the constitutions of several countries (Spain, France, Germany, USA, Italy and Poland) and ends with general conclusions. Tomáš Pezl's contribution, "Anti-Terrorist Measures and Democratic Constitutionality in Israel", offers valuable insight into that country's democratic institutions, as well as the legislative measures necessary for an effective fight against terrorism. He also offers general conclusions that are beneficial to other countries. This study offers an intriguing view of the problem, using the knowledge and experience of a country that is among the most practised in combating terrorism.

In the first subchapter titled "Universal Standard of International Law and Legal Politics of the Fight against Terrorism", Dr. Josef Mrázek discusses the instruments of international law for combating international terrorism that the events of September 11, 2001 led to more, as well as the more frequent deliberations on the relationship between terrorism and war. "It is not only about a declared war on terrorism, but also the conception of terrorism as a form of war." Mrázek further emphasises the necessity of resolving certain problems *de lege ferenda*. Dr. Vladimír Balaš contributed the next subchapter titled "International Criminal Court and Prosecution of Crimes of Terrorism". The author addresses the key question of whether the attacks of September 11, 2001 can still be considered simply as terrorism or whether they constitute an act of war. Balaš concludes unequivocally that "a terrorist act or, more accurately, the terrorist acts which we have, particularly during the last decade, witnessed, may be without hesitation considered armed conflict on an international scale. This only differs from the generally accepted view on war by the fact that one of the belligerents does not follow any rules, including rules of a mandatory nature."

The chapter ends with an interesting and valuable contribution by Magdalena Ličková, "Articulation of Legal Mechanism in the Fight against Terrorism as Developed within the United Nations Organization and the European Union." The author focuses on the theoretical premises pertaining to the legal force of international treaties in the legal framework of the European Community. The next subchapter titled "Non-Derogatable Human Rights and Terrorism" by Vladimír Baláš offers interesting insights into the subject. The author considers the legal, ethical and philosophical ramifications of the problem. He interprets Christopher Blakeley's statement of "whether we let our fear of terrorism corrupt our sense of lawfulness and morality" from a broader point of view. Together with other authors, he views the state-sanctioned torture of suspected terrorists as moral nihilism leading to the abandonment of the fundamental principles of democracy. It therefore constitutes a capitulation to the goals of terrorism.

Overall, the authors have created an important monograph that examines the phenomenon of terrorism and the policies of the battle against it using a multidisciplinary approach that enables them to tackle the problem as a complex whole. The concept, thoughtful analyses, logical reasoning and the comparative method, as well as the fact that the monograph is published in English, makes it attractive not just for readers in the Czech Republic, but for readers all around the world. I believe that this monograph will become a sought-after source of information for scientific and teaching purposes and will serve to promote Czech legal science around the world.
