

# Legal Aspects of Combating Extremism for the International Community of States

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## Abstract

**Background/Objectives:** In the 21<sup>st</sup> century, the world was faced with increased outbreaks of extremism and terrorism, being completely unprepared neither in terms of the practical combating these phenomena, nor in terms of their theoretical conceptualization. **Methods:** This article attempts to analyze comprehensively the extremism phenomenon in order to clarify the reasons of specific international focus on this phenomenon and the prospects of international rule-making in this area based on the analysis of the existing international legal acts and documents adopted by various international forums with the participation of the UN member states, and using doctrinal approaches. The study includes a broad legal framework and analysis of foreign policy initiatives in this regard. **Findings:** The analysis has shown that the above documents are increasingly dealing with the problem of combating extremism in the context of anti-terrorism efforts. Recently, the counter-extremism problem has been treated as a separate challenge to the international safety. The above documents are increasingly dealing with the problem of combating extremism in the context of anti-terrorism efforts. Recently, the counter-extremism problem has been treated as a separate challenge to the international safety. Moreover, the phenomenon of extremism takes various forms, primarily, the form of 'violent extremism'. Extremism is a complex and multidimensional phenomenon affecting the legal, social, political and economic elements. The uniqueness of the article is increased due to the lack of a comprehensive analysis of the 'extremism' phenomenon as a threat to the international peace and security. In this connection, it is reasonable to unify and harmonize approaches to combating extremism. **Application/Improvements:** International counter-extremism cooperation and multidisciplinary studies of this phenomenon are associated with the prospects of scientific development of the 'extremism' concept and determination of its qualifying features for the entire international community to be universally accepted.

**Keywords:** Extremism, Human Rights, International Community, Regional Inter-Governmental Organizations, Terrorism, The UN General Assembly, The UN Security Council, United Nations Organization, Violent Extremism

## 1. Introduction

The term 'extremism' has been widely used in the texts of international legal instruments since the 1990s, however, the international law does not work out its comprehensive and universally accepted definition. At the turn of the millennium struggle against terrorism and extremism became not only burning, but also the constant item on the United Nations agenda.<sup>1</sup>

It should be noted that the initial efforts of the UN were fully focused on counter-terrorism and in spite of the lack of the concept of 'terrorism' agreed at the interna-

tional legal level the UN Member States could take more than a dozen of major conventions to combat various acts that they qualify as terrorist ones starting with the 1963 Tokyo Convention on Offenses and Certain Other Acts Committed on Board Aircraft<sup>2</sup> and ending with the 2005 International Convention for the Suppression of Acts of Nuclear Terrorism<sup>3</sup> and the 2010 Beijing Convention for the Suppression of Unlawful Acts Relating to International Civil Aviation.<sup>4</sup>

The UN stressed counter-extremism in the context of fighting against terrorism, however, recently the

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struggle against extremism has been getting a more independent direction in the United Nations activities. This is confirmed, in particular, by the Statement of the UN Secretary-General dated 15 January 2016 in which extremism is deemed as a grave threat to international peace and security.<sup>5</sup>

## 2. Literature Review

Up to now the origins and nature of terrorism today have got sufficient scientific research. Attention is drawn by the extremism outbreaks increasingly occurring in different parts of the world which are pushing scientists to study different aspects of the extremism phenomenon more and more intensely. Experts in international affairs are not an exception in this respect. Among these scientists E. Murphy<sup>6</sup> is distinguished who made an attempt to explain the origins and nature of terrorism in Pakistan and comprehensively analyze the social, political and economic factors, promoting the growth of extremism. George T. Rankin and Kenneth M. Cowen<sup>7</sup> examine policies designed to combat terrorism and extremism in the European countries with Muslim population. D. Gereluk<sup>8</sup> focuses on the factors that influence the growth of extremism, such as lack of education, and lack of public awareness of the problem of extremism. An important contribution to the understanding of religious extremism is made in<sup>9-13</sup>.

Western scientists pay attention to the fact that terrorism and extremism have grown from a national problem in the international one. However, as underlined in<sup>14</sup>, these threats are interrelated and a threat to one person is a threat to all, the mutual vulnerability of the weak and the strong has never been so obvious.

In general, it should be noted that many of the works of foreign authors who mention 'extremism' in the title or keywords, unfortunately, do not contain essential provisions concerning extremism as a threat to international peace and security.<sup>15</sup>

## 3. Methodology

In order to highlight the main conceptual aspects of the theme study, the authors used the methodological approach. The authors separately examined the concepts and categories related to extremism. The study used scientific methods, such as the generalization of the method of

dialectics, system-structural method, as well as methods of analysis and synthesis. The article also applies special methods of research: historical, comparative legal, legal and forecasting.

## 4. Results and Discussion

### 4.1 United Nations Organization

The current stage of the struggle is characterized by the intensified fight against terrorism and extremism carried out by United Nations agencies, despite the fact that the international community fails to agree on a common definition of terrorism at the international legal level.<sup>16</sup> The last resort in this difficult matter is the process of drafting a comprehensive convention on international terrorism<sup>17</sup> initiated by India in 1996, which was faced with discrepancies in the approaches of the states to the definition of 'terrorism', and how terrorism correlates with the 'right of peoples to self-determination'.

In context of the above natural questions arise: what is the prospect for the development of customary international legal definition of extremism? Would this issue suffer the same fate as the definition of terrorism?

These questions become even more complicated in the light of new UN documents, in particular According to Resolution of the UN General Assembly, in many regions of the world terrorism is based on extremism.<sup>18</sup>

In previously adopted documents, in particular in UN GA Resolutions 58/174 and the "United Nations Global Counter-Terrorism Strategy", endorsed by the UN GA Resolution 60/288, extremism is mentioned as 'ethnic extremism'<sup>19</sup> and in the context of terrorist recruitment.<sup>20</sup>

Resolutions adopted in the past two years by the UN General Assembly in this field differ in that they separately distinguish the new form of extremism under the English term of 'violent extremism'. In the relevant UN documents translated into the Russian language different interpretations are given such as 'violent'/'militant' extremism, though the English version uses a single term 'violent extremism'.

For example, GA resolution 68/127 is titled as "A World against Violence and Violent Extremism". This resolution states that "violent extremism constitutes a serious common concern for all Member States, threatening the security and well-being of human societies"<sup>21</sup>. It stresses that "there is no justification for violent extremism, what-

ever the motivation.”<sup>21</sup> Particular attention should be paid to the fact that this resolution is entirely devoted to violent extremism and, thus, it claims to be the first UN instrument aimed solely at combating extremism. In another Resolution<sup>22</sup> the UN General Assembly is “alarmed by the acts of intolerance, violent extremism, violence, including sectarian violence, and terrorism in various parts of the world, which claim innocent lives, cause destruction and displace people, and rejecting the use of violence, regardless of motivation.”

UN Human Rights Council (HRC), established in 2006 to replace the UN Human Rights Commission and acting under the supervision of the UN General Assembly is actively involved in the fight against extremism. The UN GA Resolution 30/15 “Human rights and preventing and countering violent extremism” reflects the HRC assessment, which stipulates that “acts, methods and practices of violent extremism in all their forms and manifestations are activities that aim to threaten the enjoyment of human rights and fundamental freedoms, and democracy, and threaten territorial integrity and the security of States, and destabilize legitimately constituted Governments.”<sup>23</sup> The Resolution urges international community to “take the steps necessary to enhance cooperation to prevent and counter violent extremism.”<sup>23</sup>

At the beginning of this year, to be exact on January 15, 2016 the UN GA approved the Plan of Action to Prevent Violent Extremism<sup>24</sup> (hereinafter – Action Plan). According to the Plan of Action, violent extremism is “a diverse phenomenon, without clear definition. It is neither new nor exclusive to any region, nationality or system of belief.”<sup>24</sup> The main part of the document contains measures to be taken in different areas (engaging communities, empowering youth, strategic communications, the Internet and social networks, etc.) and recommendations for the prevention of extremism.

While presenting the Plan of Action, the UN Secretary-General Ban Ki-moon stated: “There is no single pathway to violent extremism. But we know that extremism flourishes when human rights are violated, political space is shrunk, aspirations for inclusion are ignored, and too many people – especially young people – lack prospects and meaning in their lives.”<sup>25</sup>

The Geneva Conference on Preventing Violent Extremism<sup>26</sup> should be mentioned among the recent activities to implement the Plan of Action; it was organized jointly by the Government of Switzerland and the United Nations in April 2016. This conference provided

an opportunity for the international community to share experiences and best practices on countering violent extremism.

The fight against extremism is also a priority issue on the agenda of the UN Security Council. In Resolution 2178<sup>27</sup> of the UN Security Council it is noted that “the terrorism threat has become more diffuse”. In the Resolution 2195<sup>28</sup> the UN Security Council confirms the existence of challenges in the field of prevention of financing terrorism and violent extremism and the recruitment of new subjects for terrorist acts and condemns any external support for terrorist and extremist groups, and emphasizes that “the combined presence of terrorism, violent extremism, and transnational organized crime may exacerbate conflicts in affected regions, including in Africa”.

In the recently adopted Resolution 2249<sup>29</sup> the UN SC is concerned over the actions of the Islamic State of Iraq and the Levant” (ISIL, also known as Daesh), expressed in its violent extremist ideology, its terrorist acts, its continued gross systematic and widespread attacks directed against civilians, abuses of human rights and violations of international humanitarian law, including those driven on religious or ethnic ground, its eradication of cultural heritage and trafficking of cultural property. The UN Security Council qualifies these crimes as a global and unprecedented threat to international peace and security.<sup>29</sup>

## 4.2 UNESCO

In the system of specialized UN agencies an active role in the fight against terrorism and extremism is played by the United Nations Organization for Education, Science and Culture (UNESCO). This area belongs to the direct competence of UNESCO, as it is responsible for formation of intellectual and moral conditions necessary for the effective functioning of the entire UN system. Under the auspices of UNESCO the programs are implemented that increase the level of education, forming the worldview based on the manifestation of tolerance and respect for different cultures, aiming at the formation of a mature civil society forming non-acceptance of extreme radicalism, conjugated with terrorism, extremism and vandalism that destroy the cultural and historical heritage including in Syria, Iraq and Afghanistan. The implementation of the UNESCO's programs in education, culture and science is an integral part of the prevention of extremism and terrorism.

In June 2015 in the UNESCO head-quarter in Paris, a two-day conference “Youth and the Internet: fighting

radicalization and extremism<sup>30</sup> was held, the purpose of which was to support the efforts of Member States and the international community as a whole, in the fundamental study of the ways to use the Internet in fueling violent extremism and developing effective tools in response. In particular information literacy should be subject to studying, which helps young people better identify and reject extremist propaganda. This approach to information literacy implies “raising awareness about hate speech, its causes and consequences, and the creation of new platforms and networks for dialogue and mutual understanding.”<sup>30</sup>

This approach to literacy requires an explanation of the essence of ‘hate rhetoric’, the causes and consequences of its occurrence, as well as the creation of new platforms and networks in order to establish dialogue and understanding

#### 4.3 Definitions of ‘Extremism’ in Dictionaries

In the absence of generally accepted international legal definition of ‘terrorism’, we have to find out the characteristic features of the phenomenon of extremism. In this regard, we should first of all refer to the dictionaries.

Explanatory Dictionary of the Russian Language<sup>31</sup> defines ‘extremism’ as a Latin word *extremus* – extreme, which means adherence to extreme views, mainly in the political sphere.

In the Oxford English dictionary<sup>32</sup> the word ‘extremist’ is understood as a person who holds extreme political or religious views, especially one who advocates illegal, violent, or other extreme action.

As we see in these two dictionaries the approach to the phenomena under consideration differs: in the dictionary of the Russian language the phenomenon of ‘extremism’ is taken as a basis, while in the English dictionary the definition is based on ‘extremist’, as a noun. In the latter the definition covers extreme religious views along with the political ones.

Cambridge Advanced Learner’s Dictionary & Thesaurus<sup>33</sup> defines ‘extremist’ as someone who has beliefs that most people think are unreasonable and unacceptable. At the same time, ‘extremism’ is defined as the fact of existence of such person – the extremist – in the society: “the fact of someone having beliefs that most people think are unreasonable and unacceptable”.

The American thesaurus Merriam-Webster’s Dictionary<sup>34</sup> ‘extremism’ is understood in the narrow sense: “belief in and support for ideas that are very far from what most people consider correct or reasonable” and in the broadest sense ‘extremism’ is “the quality or state of being extreme and advocacy of extreme measures or views”.

#### 4.4 The Role of Regional Intergovernmental Organizations in Combating Extremism

The first international legal instrument which obliges State Members to fight extremism is the Shanghai Convention on Combating Terrorism, Separatism and Extremism<sup>35</sup> adopted within the framework of the Shanghai Cooperation Organization (SCO) on June 15, 2001. It should be underlined that in this regional act the attempt of States was made to combat such threats as ‘terrorism’ and ‘extremism, and the relationship between these crimes is emphasized.

According to the Shanghai Convention, ‘extremism’ is understood as any act “aimed at seizing or keeping power through the use of violence or changing violently the constitutional regime of a State, as well as a violent encroachment upon public security, including organization, for the above purposes, of illegal armed formations and participation in them, criminally prosecuted in conformity with the national laws of the Parties.”

The Council of Europe (CE) adopted European Convention on the Suppression of Terrorism<sup>36</sup> in 1977. However, this Convention has proved insufficient to respond to all challenges of the modern time. Consequently, in 2005 the Council of Europe adopted by the Convention on the Prevention of Terrorism in 2005 (CETS No.196)<sup>37</sup>, and the Additional Protocol thereto<sup>38</sup> of 19 May 2015 which, like the 1977 Convention does not contain references to extremism.

Despite this gap, an Action Plan “The Fight against Violent Extremism and Radicalization Leading to Terrorism”<sup>39</sup> was separately developed in 2015 to counteract extremism. This Action Plan aims to strengthen the legal framework to combat terrorism and violent extremism, as well as to prevent violent radicalization in schools, prisons, and the Internet. The Action Plan provides measures for the prevention of violent radicalization and measures to increase the capacity of the community in the rejection of all forms of extremism. According to the



Action Plan, “greater emphasis must be placed on both preventing the spread of extremist views and the recruitment of terrorist fighters through new communication networks.”<sup>39</sup>

In 2003, the Intergovernmental Committee of Experts on Terrorism (CODEXTER) was established within the framework of the Council of Europe. With the adoption of the Action Plan in 2015, the competence of the CODEXTER in addition includes such issues as the development of recommendations to Member States of the Council of Europe to combat terrorism, consideration of the problems of radicalization and extremism, assessment of possible gaps in the legal framework in the field of preventing and combating terrorism and extremism.

In the Commonwealth of Independent States (CIS) the Treaty on the Cooperation of the CIS Member States in the Fight against Terrorism<sup>40</sup> dated June 4, 1999 is in force; it is dedicated exclusively to combating terrorism and aimed at promoting support, improving the efficiency of cooperation in this field between the parties.

In 2005, the Concept of Cooperation among the CIS Member States in the Fight against Terrorism and Other Violent Manifestations of Extremism<sup>41</sup> was developed. The main objectives of the cooperation according to the Concept are:

protection of the CIS member states against any attempt of terrorism and extremism, eliminate the causes and conditions of extremism and terrorism, the development of strategies and collaborative approaches to combat these phenomena in the CIS.

Cooperation of the CIS Member States in the fight against terrorism and violent manifestations of extremism is based on the following principles:

- strict compliance with the universally recognized principles and norms of international law;
- opposition to the use of ‘double standards’ practice in the international efforts to combat terrorism and extremism;
- ensuring the inevitability of punishment, both for individuals and legal persons for participation in terrorist and extremist activities;
- a comprehensive approach to combating terrorism and extremism, using the whole arsenal of preventive, legal, political, socio-economic, propaganda and other measures, etc.

In 2013, within the CIS Program for Cooperation of the CIS Member States in the Fight against Terrorism and

Other Violent Manifestations of Extremism,<sup>42</sup> for 2014-2016 was developed. The complex of measures stipulated by the Program is based on the provisions of the Treaty on Cooperation among the CIS Member States in the Fight against Terrorism of June 4, 1999, and the Concept of Cooperation among the CIS Member States in the Fight against Terrorism and Other Violent Manifestations of Extremism of August 26, 2005 mentioned above. The adoption of the Program is determined by the need for the CIS Member States to respond adequately to changes in the immediate conditions when combating terrorism and other violent manifestations of extremism.

#### 4.5 The RF Legislation in the Fight against Extremism

To determine the key elements of the definition of ‘extremism’ it is reasonable to analyze the national legislation concerning the fight against extremism. In this regard, let us consider first of all the provisions of the Federal Law “On Countering Extremist Activity”<sup>43</sup> (No. 114-FZ) passed in 2002, which highlights the characteristics of extremism:

- forcible change of the foundations of the constitutional system and violation of integrity of the Russian Federation;
- incitement of social, racial, ethnic or religious hatred;
- violation of rights, liberties and legitimate interests of an individual because of his/her social, racial, ethnic, religious or linguistic identity or attitude to religion;
- preventing legitimate activities of government authorities, local self-government, election commissions, public and religious associations or other organizations, combined with violence or threats to use violence;
- financing the above-mentioned acts or providing any other material support to an extremist organization, including assistance in printing their materials, offering educational or technical facilities, or providing communications or information services.<sup>43</sup>

In 2013, the Russian President approved the Public Safety Concept of the Russian Federation,<sup>44</sup> according to which “one of the main sources of public safety threats is extremist activities of nationalist, religious, ethnic and other organizations and structures aimed at violating the unity and territorial integrity of the Russian Federation, destabilizing the political and social situation in the country. Of particular concern is the spread of extremism among young people.”

According to the Strategy of Countering Extremism in the Russian Federation,<sup>45</sup> the ideological component of extremism is based on a system of views and ideas about violent and illegal actions as a means of resolving social, racial, national, religious and political conflicts, which is a forming component for the creation of extremist organizations. Extremism is manifested as socially dangerous and wrongful acts having the obligatory ideological component.

In compliance with the Military Doctrine of the Russian Federation,<sup>46</sup> one of the military dangers and military threats to the state is a “growing threat of global extremism (terrorism) and its new manifestations under the conditions of insufficiently effective international anti-terrorist cooperation, real threat of terrorist acts with use of radioactive and toxic chemical agents,” and “existence (emergence) of seats of inter-ethnic and inter-confessional tensions, activities of radical international armed groupings and international private military companies in areas adjacent to the state border of the Russian Federation and the borders of its allies, as well as territorial contradictions and upsurge in separatism and extremism in some regions of the world”.

In April 2016 a new package of anti-terrorist bills was introduced into the State Duma of the Russian Federation for consideration; this anti-terror package provides, in particular, the increase of responsibility for terrorism financing and introduction of amendments in the component elements of crime in the RF Criminal Code such as: ‘failure to report terrorist crimes’, ‘promotion of extremist activities’ and ‘an act of international terrorism’, implying the terrorist attacks outside the country in which Russian citizens or the interests of the Russian Federation were subjected to danger.

The age threshold for liability for terrorism, according to the new anti-terror bills, starts from 14 years, eliminating the gap in the law concerning the age limitations of criminal responsibility for particularly grave crimes. The liability for inducement or recruitment for participation in extremist activity, public calls to terrorist activity or public justification of terrorism on the Internet, for aiding and abetting terrorists gets stringent. The NGOs have got concerned over innovation to introduce obligations for Russian communications service providers to records of conversations, text messages and images store for three years and make them available on request of special services and over a ban on travel outside of the Russian Federation for certain categories of Russians.<sup>47</sup> It should

be noted that the Russian Government has supported the anti-terror bills as a whole, however, has presented a number of comments relating to the supplementary study of responsibility for failing to report a crime and an act of international terrorism. According to the Government, the innovations with regard to obligations imposed on the communications providers need to be adjusted. In general, the anti-terrorism package of bills is relevant and aims to improve the legal regulation in the sphere of combating terrorism, extremism, as well as providing state and public security.<sup>48</sup>

## 4.6 Doctrine

Due to the fact that the phenomenon of extremism is polysemantic, it is also appropriate to refer to the insights of the humanitarian doctrine in terms of the characteristic features of extremism.

For example, political extremism is characterized by its focus on changing the political system in an illegitimate and violent manner.<sup>49</sup> Professor V.S. Kovalev defines ‘political extremism’ as a system of views, ideas, positions and actions of public associations and political parties outside the accepted norms of morality and law.<sup>50</sup>

Jan K. Brueckner and Amihai Glazer note in their research<sup>51</sup> that extremism policy could trigger a wave of migration, which in turn is a negative factor both for the state itself and to neighboring countries.

Intolerance towards other religions, commitment to extreme interpretations of beliefs, ideals, and the denial of other views are called the characteristic features of ‘religious extremism’.<sup>52</sup> According to <sup>53</sup>, ‘religious extremism’ is formed as the expansion of religious and pseudo-religious organizations and systems, forming their own models of social organization and behavior of individuals, and in some cases it offers the alternative models of globalization.

Neil Kressel<sup>54</sup> attempted to give a definition to the ‘religious extremism’, and also noted that each faith has its extremists who interpret the scriptures at an angle of enmity and hatred. According to him, the sacred texts are considered only from the modern point of view, however true understanding of religious extremism requires a historical approach and analysis of examples from other eras such as, for example, the religious wars in Europe.

‘National extremism’ is understood as protection of the interests of one nation by a militant way, manifestation of ethnic violence and disrespect for the rights of other peoples. Professor O.I. Linkyavichyus <sup>55</sup> believes

that this type of extremism, (namely, the ideology and propaganda of violence) is especially dangerous for multinational states, breaking the country from inside.

Recently, researchers have distinguished also other types of extremism, such as 'social extremism' encroaching the social principles and the equality of citizens;<sup>56</sup> 'extremism in culture' arising during the change of values in the society;<sup>57</sup> 'youth extremism',<sup>58</sup> and 'information extremism'.<sup>59</sup>

Norman Bettison<sup>60</sup> notes that terrorist and extremist organizations inspired by hatred promote it among those who feel a sense of resentment and despair, among those who had self-radicalized and is ready to commit violent acts to demonstrate their resentment.

## 5. Conclusion

2015 was a year marked by the intensification of the foreign policy initiatives of States to counter violent extremism. In this regard, Washington Summit should be noted first which was held in February 2015, and the 70th session of the UN General Assembly also deserves mentioning. At these and other forums, in addition to the traditional use of the term 'extremism'; definition of 'violent extremism' was often used. This is confirmed, in particular, by the documents<sup>23</sup> adopted and statements<sup>61</sup> made recently in which it was attempted to distinguish a new kind of extremism.

Against the background of the above attention is drawn by the following fact: in the US, after the Washington summit, 2015 National Security Strategy<sup>62</sup> was immediately adopted, where the fight against extremism is highlighted as one of the key issues. In June 2015 the Homeland Security Act of 2002<sup>63</sup> was also amended in H.R. 2899.<sup>64</sup> This amendment fixed the notion of 'violent extremism' which is understood as ideologically motivated terrorist activities, and authorized the Office for Countering Violent Extremism of the Department of Homeland Security.

Thus, an interesting confluence of circumstances is observed in adoption of the US National Security Strategy and the introduction of the above-mentioned amendments regarding extremism to the Homeland Security Act. Moreover, promotion of foreign policy initiatives to combat 'violent extremism' on the part of the United States is accompanied by their increased activities in the UN human rights system: the resolution of the Human

Rights Council of 2 October 2015 "Human Rights and the Prevention of Violent Extremism" was initiated and supported by the United States. At the same time conspicuous is the fact that this Resolution does not clearly define what constitutes 'violent extremism' and fundamental principles of international law are not fixed, such as respect for sovereignty and equality of States; the inadmissibility of interference in the internal affairs of States which must be adhered to in the fight against extremism.

The foregoing gives grounds to assert that the subject of countering extremism in isolation or in the context of combating terrorism retains extremely relevant importance in the science and practice of contemporary international law. Consequently, the heated debate on key aspects relating to the phenomenon of extremism is expected on the international sites.

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