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Protection of human rights in the fight against terrorism: the right to life

Abstract: In modern times, "terrorism" has become one of the most pressing issues of our day. Terrorism is a social and political scourge that destroys mankind. From public officials to ordinary citizens, everybody understands that they themselves can become targets of terrorists at any time. If we only see the terrorist attacks all over the world in recent years, we can see that most victims of terror are innocent people. As a result of increasing terrorist attacks, innocent people are deprived of the right to live. In order to prevent and combat such cases, the legislative system should be strengthened and the fight against terrorists in the law enforcement agencies should be improved and international practice should be used to combat terrorism.

Keywords: terrorism; human rights protection; right to life; life protection.

At the beginning of the 21st century, world powers were facing increased terrorist manifestations. States were not fully prepared for the fight against these social events. This, as it is the most dangerous and complicated event of the 21st century, expands the scale of terror and fear.

These ruthless actions, which are in the minds of people like fear and panic, have been described as "terrorism" in national legislation. The concept of terrorism can be found in Article 214 of the Criminal Code of the Republic of Azerbaijan

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and Article 1 of the Law of the Republic of Azerbaijan "On Combating Terrorism". When we look at the concept of "terrorism" in both the laws, we see that the content is identical in terms of content. Thus, let's look at the notion of Article 214 of the Criminal Code of the Republic of Azerbaijan. According to this definition, terrorism is a violation of public safety, panic among the population, or loss of life, damage to health, serious property damage, or other socially dangerous consequences for the purpose of influencing decision-making by government or international organizations, explosion, fire or other acts (terrorist act), and threats of such acts for the same purpose.

Terrorism is subjectively deliberately committed. The perpetrator recognizes that his actions are socially dangerous and that he sees the consequences of his public danger and wishes them. Here it is intended to disrupt public safety, to create panic among the population, or to influence decision-making by the authorities or international organizations. This is a necessary sign of the subjective aspect of the terrorist crime.

Criminal-legal analysis of this criminal offense indicates that it is not only national, but also international. Since the deed is considered a criminal offense, and the struggle for it is needed not only in the state, but also in the international struggle. That is why on January 27, 1977, the member states of the Council of Europe signed the European Convention on Combating Terrorism. The signatories to this Convention have taken on a number of important commitments to combat terrorism.

Particular attention was paid to the fight against terrorism in the national legislation of the republic. Thus, the law of the Republic of Azerbaijan "On Combating Terrorism" was adopted on June 18, 1999. This law defines the legal and organizational bases of the fight against terrorism in the Republic of Azerbaijan, coordinates the activities of state agencies engaged in combating



terrorism, and identifies the rights and duties of these bodies and citizens in this area.

Article 3 of that law states that the fight against terrorism in the Republic of Azerbaijan is carried out for the following purposes:

1. ensuring human rights and freedoms, the security of society and the state;
2. detection, prevention and minimization of the anticipated damage caused by terrorism;

While terrorist acts are expressly expressed in different ways, it is possible to see that they all have two common attributes when analyzed carefully. One of the first signs of terrorist acts aimed at shocking state power and public order can be seen as a second sign when the actions of the terrorists are organized by the terrorists in a form of organized and brutal violence.

Failure to maintain material and technical support during the fight against terrorism acts by preventing such social incidents by causing harm to human beings and destabilizing their lives and the imminent legislative framework affect the scale of terrorism. Thus, a particularly dangerous act of fears and anxiety can result in the end of people's right to life, injuries to their health, and hostility among national and ethnic groups living within the state.

In order to fully understand terrorism, first of all, it is necessary to study the roots of its external appearances. The causes of terrorism are often mistaken. Such an idea is widely spread that terrorism is a movement against injustice, and terrorists are people who have been overwhelmed by unbearable conditions (poverty, despair, social and political constraints). From this logic, the only way to eliminate or at least minimize terrorism is not to stifle terrorism by force, but its source is to cut the wound that does not let the terrorists out [1].

National leader Heydar Aliyev also noted in his speech that the Republic of Azerbaijan condemns the threat of terrorism for the whole world and supports the vital importance of the conflict.



Speaking at a high-level meeting of the United Nations Security Council on May 4, 2012, President of the Republic of Azerbaijan said: "Terrorism is a threat to international peace and security, including human rights, fundamental freedoms, democracy, political independence, sovereignty, territorial integrity and ultimately a serious threat to the establishment of social and economic development [11].

Combating terrorism with its various forms and types, global scale, intensity and relentlessness is of global importance [2].

We are in three ways to lose the right to live in the fight against terrorism:

1. People who have died as a result of the terrorist act "victims of terror";
2. "Terrorists" who are resisting law-enforcement agencies, which are destroyed within the anti-terrorist operation;
3. Anti-terrorist operation participants.

People's rights are not of great importance for those involved in the terrorist act. Therefore, all efforts must be united so that the most human right should not be abolished.

1. Modern-day victims of terrorism are increasing every day. The terrorist act is a terrorist attack by the use of explosive, fire or other acts that threaten the lives of people, their health or other socially dangerous consequences to achieve their goals. Thus, the danger of the death of people must be understood as the real danger of at least one person's life. The danger of harm to people's health should be understood to mean that at least one person's health can be damaged. To carry out this policy, terrorists must do intimidating acts. The act of committing such acts is considered a terrorist act.

2. December 8, 1960 In Article 59 of the Criminal Code of the Azerbaijan SSR, an act of terrorism was construed. According to that definition, a terrorist act is committed to political or public-violence violence by the state or public figures. It is impossible to agree with this notion. Because, from the modern point of view, it would be wrong to consider this concept as a proper classification. In real life,



civilian and civilian casualties are more than terrorism. Thus, during the terrorist act, "terrorist victims" are considered not only civil and civilians, but also civilians, civilians [3].

1. Article 1 of the Law of the Republic of Azerbaijan on Combating Terrorism contains the definition of terrorist word. According to that definition, a terrorist is considered to be the person who directly or indirectly participates in any terrorist activity as an organizer, instigator, assistant or administrator, or who prepares or is committing such acts. The subject of the terrorist crime may be any natural person of up to 14 years of age before committing this offense.

2. Anti-terrorist actors are called antiterrorist actors. Thus, Article 5 of the Law of the Republic of Azerbaijan on Combating Terrorism deals with the bodies carrying out the fight against terrorism. Persons participating in the antiterrorist operation are mainly law enforcement agencies. Examples include firefighters, investigators, and investigators who fulfill their duties under police and state security.

It should be noted that the Universal Declaration of Human Rights was adopted by the UN General Assembly on December 10, 1948. Thus, starting from 1950, December 10 is celebrated as the International Human Rights Day in the world. The Declaration states: "Everyone has the right to life, liberty and security of person, and no one can be subjected to degrading and inhuman degrading punishment or torture, without humiliating human dignity."

The right to life is the most important right in any system of human rights protection. Article 2 of the European Convention for the Protection of Human Rights and Fundamental Freedoms states that everyone's right to life is protected by law. No one may be deprived of his life, except for the execution of such sentence by a court of law, for committing an offense punishable by law.

The right to life is the inalienable right of man. All other rights and freedoms come after the right to live. The right to life implies that a person acts without any



restrictions on the existence of his or her physical and biological presence, and that he uses different material and spiritual benefits, such as a social being. Every person has the right to live without any psychological deficiency or personal morale. Thus, because of the existence of any legal fact, its expiration is always the case, as a rule, by the fact of death.

In our Constitution, adopted in 1995 by our nation-wide referendum, the rights and freedoms of individuals and citizens were ensured. The right to life is the most natural right of every human being. From the moment of his birth, he has the right to live, and this right remains with him until the end of his life. The right to life is enshrined in Article 27 of the Constitution of the Republic of Azerbaijan. This article states that everyone has the right to life. Thus, everyone's right to life is considered to be inalienable. At the same time, the article specifically clarified in what circumstances, in what ways and by which organs the termination of human life ended. Hence, article 27, paragraph 2, states that only the death of enemy soldiers during an armed attack on the state was the exceptional exception of the death penalty in accordance with the court's judgment. We would like to note that the situations mentioned in the Constitution cannot be understood as deprivation of the right to live. The killing of enemy soldiers during the armed aggression is viewed as a self-defense measure. The application of the death penalty on the basis of the Court's law envisaging the equivalent of the act of killing, and the death penalty imposed by the court's judgment does not violate the right of a person to live. Considering paragraph 3 of this article, the death penalty, as an exceptional measure of punishment, can only be prescribed by law for particularly grave crimes against the state, the human life and health [4].

It is worth mentioning the moratorium on the death penalty in our country since 1993 and the complete abolition of this punishment in 1998, and the work undertaken by the Universalist Leader Heydar Aliyev in the field of human rights protection.



According to international statistics, terrorist attacks in the United States on September 11 - 2996 dead, Somalia terror on October 14, 2017 - 512 dead, terrorist attacks in Iraq on August 14, 2007 - 458 dead, Russia September 3, 2004 terror - 335 dead, terrorist attacks in Egypt on November 24, 2017 - 305 deaths were recorded. People who have died during the terrorist attacks are deprived of the right to live as their natural right.

Note: *Regarding the terrorist attacks in Azerbaijan, I note that on June 17, 1984, three people were wounded and one woman was killed when the 106th passenger bus in Baku was blown up by Armenian terrorist Vartanov. On April 30, 2009, at the Azerbaijan State Oil Academy, 13 people were killed and 10 wounded as a result of the bloody murder.*

The deaths that occurred during a terrorist attack indicate that the victims of those events were deprived of the right to live. Depriving others of their right to live and depriving them of their right to live is, of course, considered a crime and is regulated by criminal law and international law norms and conventions of those suffering from terrorism. Thus, when the intentional man (or several others) were killed during the acts of terrorism, it is not covered by the terrorist crime, and is further recommended by the Code of Criminal Code Article 120.2.11.

The main purpose of the right to life is to protect individuals from being deprived of their rights. The right to life is the right of everyone to enjoy without any discrimination. The text of Article 2 § 1 of the European Convention for the Protection of Human Rights and Fundamental Freedoms contains positive, negative and procedural obligations. A Negative Commitment requires States to refrain from depriving people of their lives. Positive commitments are due to such a requirement that states take positive action to protect the lives of persons under jurisdiction. A procedural obligation (which can be described as a positive obligation) is a duty to carry out an effective official investigation in all cases of



death of a person as a result of the use of force by both the public and private persons [5].

In order to meet these requirements, government agencies should take appropriate measures to punish those who have illegally killed other people. The right to life does not coincide with the impunity of illegal killings. To do so, the state should ensure not only the opportunity to complain and the investigation procedure but also the existence of an effective criminal justice system.

Based on international experience, it can be noted that, as an example of terrorist killings during anti-terrorist operations, 74 terrorists belonging to the PYD / YPG and ISID, 1715 terrorists, were killed in the operation of the Zeytun Budagi jointly organized by the Turkish Armed Forces and the Free Syrian Army deprived of the right [6].

The deprivation of the right to life mentioned in article 2, paragraph 2, of the European Convention for the Protection of Human Rights and Fundamental Freedoms does not constitute a criminal offense, that any person may be held liable for the protection of the law against unlawful violence or to prevent the escape of a person detained on a legal basis is not a breach of this article when there is absolute necessity in applying force during the coup or riot in accordance with the law.

As mentioned in Article 27, paragraph 4 of the Constitution of the Republic of Azerbaijan, the necessary protection, the ultimate necessity, the arrest and detention of the offender, the prevention of the detention of a detainee, the rebellion against the state or the prevention of a coup d'état, It is not permitted to use a weapon against human, except in cases where it is committed. The Constitution establishes that, in those cases, the application of weapons to humans is not a crime [4].



Necessary defense, the ultimate necessity, the detention of a criminal must be investigated as part of the anti-terrorist operation in the criminal-legal category, which will be the subject of our next article.

We would like to inform you that Article 36 of the current Criminal Code provides for the necessary protection. An act of protection against a socially dangerous offense by damaging the life, health and rights of the self-defense or other person, or of the interests of the state or society, is not regarded as criminal if it has not exceeded the necessary safeguard value under Article 7 of this article.

The ultimate necessity means that the individual acts in the way of harm to the protected by law to eliminate the danger which directly threatens the life, health and rights of the individual or other persons, the interests of the state and society, and in that situation it is impossible to eliminate this threat by another means understandable. In other words, any person can damage the law-protected objects to eliminate the danger that directly threatens the mentioned benefits, but such damage should be less than the absolute loss. It should be noted that the danger that threatens the final necessity must be realistic and real. Such hazards may vary. For example, natural disasters, social disasters (fire, explosion) [12].

According to the above-mentioned definition, the offense is not considered a crime if the person uses the protection necessary to protect his or her right to live, that is, the person who intends to kill his life and health. Necessary protection is understood to be a legitimate attack to the offender to protect the public from a dangerous intent. A socially dangerous assault is prevented by causing harm to a conscientious objector.

Thus, firing on terrorists, members of terrorist groups for the purpose of destroying them, is permitted in the law and practice of the state.

If we pay attention to the national system of law, we will see that in which cases the use of weapons is permitted. The cases of use of physical force, combat equipment and weapon are regulated by a number of laws of the Republic of



Azerbaijan. Article 17, paragraphs 8 and 26-27 of the Law on Police, and Article 36 of the Law of the Republic of Azerbaijan "On State Border".

According to Article 8, paragraph 2, of the Law of the Republic of Azerbaijan "On Service and Civil Weapons", firearms shall mean mechanical damage to the target at a distance from the missile targeted at the expense of energy caused by combustion of barit or other substances or a weapon of ordinary origin. The firearms include guns, machine guns, machine guns, grenade launchers, and so on referenced. The use of firearms means the actual application of such a weapon to harm human health.

According to Article 17, paragraph 8, of the Law of the Republic of Azerbaijan "On Police", it is allowed to use physical force, as well as to keep, carry and use special means and firearms in accordance with the procedure established by law.

Article 26 § 4 of the same law provides that physical violence against any person who fails to comply with its legitimate demands includes the use of force against human life and the application of forced stopping measures, when armed resistance during the seizure, is a real threat to human life in the event of a criminal offense, in the prevention of terrorism or religious extremism or the forced alteration of the constitutional system of the state, the prevention of the seizure of firearms by another person.

The use of force, special means or firearms in full force in accordance with the requirements of Article 26 § 6 of the Law of the Republic of Azerbaijan "On Police" shall be proportionate to the danger. The deprivation of life of any person during the application of physical force, special means or firearms is deemed to be inadmissible as a violation of the right to life [8].

Article 36 of the Law of the Republic of Azerbaijan "On State Border" states that the use of weapons and combat vehicles during the protection of the state border of the Republic of Azerbaijan Border Guard and Air Defense Forces have



the right to use weapons and combat equipment while maintaining the state border of the Republic of Azerbaijan.

In necessary cases, weapons and combat equipment of other types of Armed Forces of the Republic of Azerbaijan may be used during the protection of the state border of the Azerbaijan Republic [9].

Article 15 of the Law of the Republic of Azerbaijan "On Combating Terrorism" provides for the damage to life, health or property of terrorists during the anti-terrorist operation. Article 15 of the Law of the Republic of Azerbaijan "On Terrorism" provides for the damage to life, health or property of terrorists during the anti-terrorist operation.

We would like to point out that anti-terrorist operations should be planned and controlled by the state authorities "minimizing the likelihood of committing a death penalty".

We also want to state that the compensation of damages caused by terrorist acts and the social rehabilitation of the victims and the legal and social protection of persons fighting against terrorism are set out in Articles 13-14 of the Law of the Republic of Azerbaijan "On Combating Terrorism".

Thus, the damage caused to the property of physical and legal entities as a result of terrorist acts is paid at the expense of the state budget, and then this amount is deducted from the guilty persons. Social rehabilitation of victims as a result of acts of terrorism provides for the legal, psychological, medical and professional assistance provided to these persons, their work and housing.

Legal and social protection of anti-terrorist actors is under state protection. These safeguards are applied to the following persons: persons who are directly involved in the fight against terrorism, government agencies, state bodies, on the prevention or detection of terrorist acts on a permanent or temporary basis and in minimizing the damage that may result from this activity and their relatives health, or property of the person concerned, close relatives of those persons. Thus, during



the operations, the family of the deceased, as well as the dependents, will receive one-time allowance at the rate of one hundred times the average monthly salary at the expense of the state budget, and then this amount will be deducted from the guilty persons.

When a participant in the fight against terrorism receives injury (trauma, trauma, contusion) to the extent that it does not allow the continuation of the operations against terrorism, it shall be paid a lump-sum benefit of at least 90 times the average wage amount at the expense of the state budget, and then this amount shall be deducted from the guilty persons [10].

Finally, we can conclude that terrorism is a social-political catastrophe that destroys humanity. As a result of increasing terrorist attacks, innocent people are deprived of the right to live. In order to prevent and combat such cases, the legislative system should be strengthened and the fight against terrorists in the law enforcement agencies should be improved and international practice should be used to combat terrorism. As a result of increasing terrorist attacks, innocent people are deprived of the right to live. In order to prevent and combat such cases, the legislative system should be strengthened and the fight against terrorists in the law enforcement agencies should be improved and international practice should be used to combat terrorism.

Taking into consideration the following, it is possible to propose the following scientifically-based recommendations:

1. Members of antiterrorist operations should register terrorist behavior by means of photographs, videos, etc. Thus, their resistance to law enforcement should be used as evidence of a preliminary investigation into the use of weapons and hostages.

2. Establish national voluntary systems that support the needs of victims of terrorism and their families and promote their lives and take action to develop such national systems.



3. In order to combat terrorism, guidelines should be drawn up for deeper, more relevant and integrated interests. Heads of central executive power bodies of state power and local self-governing bodies, as well as government officials, municipal employees, employees of organizations, institutions and organizations fighting terrorism and extremism.

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