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Terrorizing Democracies

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Terrorizing Democracies

The recent spate of apartment bombings in Russia that killed hundreds and threw the country into convulsions of fear and anger have now added terrorism to the already daunting list of challenges that Russia must overcome as it limps its way into the twenty-first century. Amongst them is the challenge of ensuring that Russia's fragile democracy is maintained and consolidated. The prospects for liberal democracy in a society marked by the desperate poverty of those at the bottom and the rampant corruption of those at the top had already diminished in the minds of many both inside and outside Russia well before the explosions and the bloodshed.

Now, with the specter of terrorism hanging over every street corner, Russia's democratic transition is further jeopardized. This was made clear in the wake of the terrorist attacks as the press and public in Russia immediately began speculating about the possible cancellation of the forthcoming Russian parliamentary and presidential elections. But the risk to Russian democracy does not come just in the form of imposed emergency rule and canceled elections. While such measures will surely be the most glaring indication of terrorism's effect upon democracy in Russia, there are a multitude of more subtle but no less pernicious ways in which the fight against terrorism can harm democracy and its associated norms. A state of suspicion may prevail rather than any abruptly declared state of emergency, as is now the case in Russia, toward those from the south of the

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country. Under such conditions, the temptation to compromise the rule of law and civil liberties when confronting terrorism is a powerful one. It is thus in the nebulous area of civil liberties and human rights that a “war on terrorism” is most likely to take its toll. The democratic costs are likely to be incremental and drawn out.

The fundamental challenge is to reconcile the necessity of combating terrorism with the constitutional, legal, and ethical demands of a democratic state. Russia is, of course, by no means alone in having to face this challenge. In the past decade, the United States has suffered its worst ever terrorist attacks, and the homeland itself, so long seemingly immune from the hostile intentions of foreign powers, now appears more vulnerable than ever before. In tackling the threat posed by the likes of ‘Usama bin Laden, even the United States, which prides itself on being the most advanced liberal democracy in the world, cannot afford to blithely ignore the potential risks to domestic civil liberties. This was brought home by the fact that in the three days following the Oklahoma City bombing, an antidefamation group recorded 222 attacks against Muslims. Were terrorist attacks in the United States to multiply, such incidents surely would too.

The experience of a well-established democracy such as Great Britain testifies to the difficulty of reconciling democratic norms with a struggle against terrorism. In its fight against the Irish Republican Army (IRA), the British government restricted the dissemination of information and prohibited membership in, not just material support of, designated terrorist organizations, as well as the wearing of badges and uniforms supportive of terrorist groups. They even banned the broadcasting of “the words of any speaker” who claimed to be a spokesman for the IRA or who supported terrorism and issued informal guidelines to the British Broadcasting Corporation to portray the IRA unsympathetically and to support the government’s position relatively uncritically.¹ But perhaps the most controversial and dramatic example of a democracy confronting terrorism is that of Israel. Israel has faced the threat of terrorism since its inception, a threat that seems to have penetrated its national psyche. Israeli life is conducted under the shadow of terrorism, from the bustling markets of Jerusalem to the glitzy shopping malls of Tel Aviv. There are few Israelis who have not been directly touched by it through the death of family or friends. Hardly a day goes by when terrorist activities are not reported in the press. Israel, in effect, exists on a permanent war-footing against terrorism. As such, its experience is highly instructive for other countries in which the threat of terrorism is now looming.

The use of torture in interrogating suspected terrorists starkly highlights the dilemmas a democracy faces when fighting terrorism. Israel has been the only democracy in the world that officially sanctioned torture in interroga-

tions of suspected terrorists. This sanction stemmed from a commission of inquiry set up in 1987 to examine the methods of investigation used by Israel's General Security Service, better known by its Hebrew acronym Shin Bet, concerning terrorist activities. Its subsequent report, named after Moshe Landau, the president of Israel's Supreme Court who headed the commission, accepted the Shin Bet's claim that physical force was sometimes needed to extract crucial information from terrorists in order to save lives. Though seeking to define and limit the type of force that could be used and establish bureaucratic procedures to determine when and how it could be applied, the commission legitimized the use of "a moderate degree of physical pressure" in so-called "ticking bomb" scenarios (individuals in possession of information about a planned terrorist attack). An effort to reverse this decision soon became the focus of a mounting campaign by civil liberties and human rights organizations in Israel and abroad. Critics claimed that the torture of Palestinian suspects was not only a violation of human rights and democratic standards, it was also ultimately counterproductive as it only hardened opposition to Israeli rule in the Occupied Territories. They also claimed that torture was carried out far more frequently than was allowed by the guidelines of the Landau report. Far from being limited to "ticking bombs," they alleged that the majority of Palestinian detainees were being subjected to various forms of torture. Their long struggle culminated in a landmark ruling by Israel's High Court of Justice in September 1999 to ban the use of torture in interrogations of "security suspects." The Court also recognized that the practice had been more extensive than was previously permitted.

A 'war on terrorism' is most likely to take its toll on civil liberties and human rights.

This decision immediately sparked an intense debate in Israel between those members of Israel's security establishment who roundly condemned it, and those for whom it represented a victory for Israeli democracy and decency. The terms of the debate were summed up in a newspaper headline in the *Jerusalem Post* shortly after the ruling: "Civil Rights vs. Security."² Critics within the security establishment argued that the court's decision hamstrung efforts to combat the threat of terrorism. They were effectively reduced to "fighting terror with one hand bound." In the opinion of counterterrorism experts, the most important element in the war against terrorism is intelligence gathering. Electronic surveillance is one means of collecting information; another is to get it from those who have been

caught. The problem is, of course, getting them to speak. According to Ya'acov Perry, a former director of the Shin Bet, "if you arrest someone, you can't just sit with them and have a nice talk over coffee and a cigarette. You can't fight terrorism that way." Boaz Ganor, head of Israel's International Policy Institute for Counter-Terrorism, concurred, "If you say from the beginning that you are restricting interrogation methods, you should know that you are blocking a key channel in intelligence gathering." Together with members of Israel's right-wing Likud party, these experts have already initiated a move to get Israel's parliament, the Knesset, to pass new legislation to legalize the use of "special methods," in the euphemistic words of the

When you fight terrorism, you become a terrorist.

bill drafted by the Likud, thereby circumventing the High Court's ruling. Although such a move has been met with vocal opposition from prominent figures in the government, such as Justice Minister Yossi Beilin and the Speaker of the Knesset Avraham Burg, Ehud Barak himself has significantly not opposed such new legislation. While remaining fairly tight-lipped on the subject, Barak in a highly

allusive remark simply stated, "We are not living in Holland."³ With his long military background, it is not hard to detect in which camp Barak's sympathies lie.

Whatever the final outcome of the debate in Israel, it serves as a stark reminder to the Israeli public and those in other democratic states around the world that a war on terrorism can be a very dirty affair. It touches upon the moral fabric of society and questions its ultimate values. At the end of a decade in which we have witnessed the worldwide spread of both democracy and terrorism, the tasks of safeguarding democracy and combating terrorism are becoming increasingly related. As we champion the discourse of human rights around the globe, we must face up to the difficulty of reconciling it with our ongoing war on terrorism. If human rights truly do belong to all equally, then how can terrorists be excluded? The danger is that, by insisting on their rights, we risk increasing their ability to take those same rights from others, most notably the basic right to life. Such dilemmas lie at the heart of a democracy's struggle with terrorism. They need to be urgently tackled, however, if terrorism is indeed, in the words of Madeleine Albright, "the war of the future." Like interstate war before it, perhaps we need to formulate a set of rules by which to fight this new war. The difficulty is, of course, that whereas previously such rules could be mutually agreed upon and practiced by the warring parties (like the Hague and Geneva conventions), in the case of terrorism it is a one-sided affair. Democratic states unilaterally place limi-

tations upon their ability to wage war against terrorists, while the terrorists themselves abide by no such restraints. Rules of the game are hard to maintain when only one side is playing by them. Does that mean that we should not be bound by our liberal scruples? That when it comes to terrorists the only rule is that there are no rules? This is certainly the somber judgment of Martin van Creveld, an Israeli expert on warfare, who claims that “when you fight terrorism, you become a terrorist.”⁴ If this is the case, then as Russia now prepares to wage its war on terrorism, we can only fear that a Russian liberal democracy will be one of the casualties.

Notes

1. Philip B. Heymann, *Terrorism and America* (Cambridge, Mass.: MIT Press, 1998), p. 98.
2. Keinon Herb, “Civil Rights vs. Security,” *Jerusalem Post*, September 10, 1999, p. B1.
3. Alon Gideon and Benn Aluf, “Barak Seeks Solution for Shin Bet,” *Ha’aretz*, September 16, 1999.
4. “The New Terrorism,” *Economist*, August 15, 1998, p. 19.