УДК 323

BRICHKOV A.S., Doctor of Philosophy, Associated Professor[1]

NIKONOROV G.A., PhD in Philos. Sc., Associated Professor[1]
[1]The Russian Federation Armed Forces Army Air Defense
Military Academy

PERTSEV A.A.
Cadet of Military Academy of Army Air Defense
of Russian Federation Armed Forces

PROBLEMS AND TRENDS OF DEVELOPMENT OF NATIONAL SECURITY ISSUES LEGAL REGULATION[1]

An attempt to analyze a problem of development of national security legal regulation issues in a contest of «hybrid threats» is made in this article. Authors emphasize place and role of information in modern society, and objective and subjective elements of modern security system. Necessity of modern democratic state organization theory and practice review is underlined with the aim of effective personal and society security system promotion.

Keywords: *national security, threats, public authority, protests, terrorism, information, democratic state.*

БРЫЧКОВ Анатолий С., д–р филос. наук, профессор[1]

НИКОНОРОВ Григорий А., канд. филос. наук, доцент
доцент кафедры гуманитарных и социально–экономических наук[1]
[1]Военная академия войсковой ПВО ВС Российской Федерации,
г. Смоленск, Российская Федерация

ПЕРЦЕВ Артем А., курсант Военной академии войсковой ПВО ВС Российской Федерации

---

[1] Статья публикуется в авторской редакции.

ПРОБЛЕМЫ И НАПРАВЛЕНИЯ СОВЕРШЕНСТВОВАНИЯ ПРАВОВОГО РЕГУЛИРОВАНИЯ ВОПРОСОВ НАЦИОНАЛЬНОЙ БЕЗОПАСНОСТИ

В статье предпринята попытка анализа проблемы совершенствования правового регулирования национальной безопасности в контексте «гибридных угроз». Авторы акцентируют внимание на месте и роли информации в современном обществе, а также на объективной и субъективной составляющей современной системы безопасности. Подчеркивается необходимость переосмысления теории и практики организации современного демократического государства в целях обеспечения эффективной системы безопасности личности и общества.

Ключевые слова: национальная безопасность, угрозы, публичная власть, протесты, терроризм, информация, демократическое государство.

Introduction. The goal of any legal regulation model of national security issues is to provide the highest level of national security. Here it's possible to highlight a key problem of modern legal regulation: a character and content of threats.

Modern threats are like chameleons. They are changeable, unstable thus means and methods lose their effectiveness quite fast and require constant national security update. Under modern conditions, total safety – maximum possible level – may exist only at cost of large concentration of current resources with implementation of emergency (within the law) authority and only under one of the following parameters:

– in a limited period of time;
– in limited space;
– regarding to certain subjects;
– regarding to certain objects.

Simultaneous combination of all four parameters presented rarely and takes place due to outstanding circumstances, for example, heads of states summits and world championship (Olympic Games; world competitions).

Main part. High security level, stated as a concept and a main goal of national security is a *socio-political choice* of optimal time balance, space and subjective-objective component of security.

According to it a state is able to guarantee *subjective (virtual) security level* only, including two main parameters:

1) subjective sense of security, specific for the whole society and particularly for its individuals;

2) consciously recognized level of threats in society.

Terrorist acts in European capitals and large USA cities represent direct confirmations of a mentioned thesis. In these examples, it is possible to see clearly all main problems connected with legal regulation system of national security issues in modern world, including Russian Federation.

Army is applied for liquidation of terrorist threat almost in all countries, what in its turn demonstrates key problems connected with security providing.

Firstly, application of army for maintaining the rule of law directly proves impossibility to provide high level with common existing means.

The practice of servicemen involvement has become usual for the most of democratic states although it was just impossible ten years ago.

Secondly, tragic event at once becomes a piece of news and political interpretation instrument. Government mass media almost instantly declaim that terrorist act have taken place without going into details and circumstances.

According to our opinion, this expression is not fully correct because there is only a partial presence of terrorist features in tragic events: casualties, moral and material damage. But, unfortunately, this constantly happens in modern society. For example, shootings in American and Russian schools may be mentioned. In fact, nobody claimed these events a terrorist act. There is no main feature of a terrorist act [1] either in Kerch events or in American executions: attempt to destabilize government operation and rising of specific requirement. It sounds horrible, but outlaws just came in and shoot down the people [2].

However, tragic events became means and instruments of political speculations and acts. For example, normative documents restricting content publishing in the Internet were adopted following the terrorist attacks in France. These actions of French government found support from all states of European Union, but in the same time identical normative restrictions adopted two years earlier in Russian Federation were defined as "undemocratic".

Thirdly, fighting against terror more often takes a form of manifestations with government leaders' participation. These manifestations are obviously made demonstrative in order to raise political rating. However, participation of political leaders and high government authorities in these events not only fails to create higher security level but also demonstrates activity which by no means correlates with position of person possessing public authority: *participation in protest activity*.

Mass manifestation, whatever motto it has, is firstly protest and only secondly – solidarity. People engaged in government administration have something that the protesting and opposition do not: the ability to make decisions rapidly and reach their accomplishment. That is why citizen authority was delegated to them. Citizens take part in support and protest actions firstly because they do not possess power authority and only secondly in order to show solidarity and support.

Their participation in protests (even in counterterrorist ones) proves that *democratic nature of modern state is facing principal changes* that become key factor of national security.

Not only boundaries between citizens and government agencies are reducing, but also character and essence of relationship between them is changing.

Scale and value of ongoing processes may be compared only with proclamation and beginning of government building by principles, stated in Declaration of human and citizen rights of 1789. The difference is that nowadays, there is not birth of a new kind of state happening, but its evolution, transition into something novel by changing and implementation of new principles in government operation. However, consequences of this are revolutionary by their scale and value. It is not a coincidence that even in official acts new characteristics of a term

"democracy" which exists in countries of European Union started to appear. A term "participatory democracy" is used most frequently [3].

"Participatory democracy" is characterized by completely different socio-political relationship system. The key of this system is about changes of relationships in "government-society-citizen" system.

Government and its administrators do not view their activity from perspective of bodies and persons vested with power authority. Operation is viewed from trust and cooperation position only. Government sets its mission in assistance to every citizen in his rights and freedoms realization, rendering help in his problem solving, and decreasing coercion methods in governmental bodies operation to the minimum. The most important thing is to form trust environment.

Government poses itself as a partner who needs constant support and care. For the government, citizen and society are customers who need to be given proper services. These services, just like others, must be competitive and required. Through citizens' eyes, government competitive ability is in fact new characteristic of this institution.

Public servant is less like person vested with power authority, but more like social agent whose activity is concerning vital services providing to the whole community and to specific individual. As a result, active development of a new democratic state model takes place – service or partner one.

However, trust as a cooperation (partnership) foundation is even more flexible term than national security threats. It is built fast and lost fast, thereby *public authority «deficit»* is left – the vacuum that different kinds of extremists rush into.

Public authority «deficit» is one of the main problems of security providing, primarily public one. It is paradoxical but, the more vested with public authority, associate themselves with citizens in mass protest events, the more motives will be for them.

Fourthly, all tragic events from the start of terror attack to outlaws' death had video proves (media part). Everything was recorded and documented, every outlaw step and action, but presence of CCTVs did not stop them. It helped to find and eliminate outlaws, but this being

said, how many people with their mind in borderline state because of such a picture will do something similar in future?

Modern security providing system is already hard to imagine without dozens of thousands of devices and gadgets performing constant control and observation. Almost every citizen has gadget that tracks its position in a passive mode [4]. But has a citizen become more confident in his security?

No doubt, there were much more threats in pre-information period. However, and this must be emphasized, the number of threat contacts of individual in particular and society in total was less by several orders than in modern time. An individual experienced them only if he became a witness or a victim or if he heard about them from somebody else [5]. Anyway, perception effect was completely different from now – individually-personal, meaning that an individual directly faced negative consequences in one way or another. As a result, educative effect was extremely vast and significant, for a person had an opportunity to saw everything by himself.

In a modern society, perception effect has another nature and content: indirectly-distracted one. An individual can behold violence for hours, feel it, and cry, etc., but as soon as he stops reading a social network feed or TV watching, he finds himself in another reality: a flat, home, friends, etc. It is a world where there are no threats or dangers. So, psychologically speaking, from the perspective of mass consciousness it may be said that threats starts to be associated not with blood, agony and suffering but with something breathtaking and interesting. It sounds cynical but its distinct displays gather romantic feature.

Threats commonness on a national level is a logical inference of mentioned above. System of relationship and interaction between individual and society is built in a way that he faces criminal and other threats displays. What is more important is that it happens despite his will and desire. Potential threats bring more argues and discussions, thus their dangerous features become more dark because of socio-political mottos and actions. Executions, hostage taking, mass genocide, etc. for some reasons for time to time stop being just crimes, and its subjects stop being just outlaws. Conversely, assessing system and interpretation of performed acts are perceive[d] in a context of socio-political situation [6].

Fifthly, vast part of information in modern society is distributed in social networks. Nowadays number of most popular social networks subscribers is more than populations of the majority of modern countries [7].

It follows that there are at least two more circumstances having direct influence on a state of national security.

1. Due to social media, every citizen possesses communication and organization means that were accessible only for state leaders several decades later. Influence of particular citizen on state development short- and medium-terms perspective is strong as never before. It is possible that something similar could be seen only in times of direct democracy,

Social media change quality of influence on government and society from the particular citizen[9]. Throughout the history, there were individuals who inspired and leaded crowds of people. But never was it spontaneous. There always was a time gap caused by leader support growth, specific emboly of his ideas into the people. He had to build his biography, pass specified stages starting from city elections as a rule.

Now social media are used as a technology of government power destabilization (protest management tool). Recent events in Republic of Belarus show that, on the one side, closed Internet channels are used for protest control, and form the other side, mass media may be used to create an image having nothing common with reality, and provoking further protest actions.

Mass media are used to create political leaders and even recognized political leaders (legally chosen state presidents may be claimed lost their legitimacy up to President Speech live broadcast interrupting which takes place in the USA). In this way, one can become a political leader in extremely short time, but it can end as fast. From this attitude, he is accidental leaders. However, power taking by individuals without biography is an event that changes a quality of state legal development, sufficiently changing government development agenda, focusing society on a false development agenda, providing exponential threat character in national security system [8].

Simultaneously, modern state legal processes have society opinion leaders, but their role is more and more secondary comparing to collective leaders –participants in changes.

Impersonality of ongoing situation is one of the main threats to state law institutions. All previous state history was individually formalized and related to the leaders who were outwardly symbolizing character and essence of changes. For example, such a mass socio-political movement as "Take over the Wall Street" is recognized and known worldwide; movements are created in almost all democratic countries after its image and likeness. However, it has no leaders itself. There are managing organs whose role is to provide logistics and coordination. Members registered in corresponding networks act as initiator of actions themselves and their demand. These people may be anybody. For example, Spaniard living in the England who is not happy with local Birmingham authority policy can launch several thousand strong protest in the New York.

2. Citizens are less oriented on concrete problems worrying them but acting analogous to requests of people from other countries. Multiplication of problems takes place in a form of private online services preliminary generating citizens' requests. For example, this is what is said on one of them: «Your petition will be good here. Our petitions gather millions of signs and appear on CNN, BBC, FOX and other information means».

National origins of democratic state «bump» with rising «external» pressure. It is paradoxical, but key source of that pressure is citizens gradually losing their government «registration» because the source of such a pressure is public opinion that formed under the influence of global factors and circumstances. The result of this is not so much in point of view and mood of citizen hearing in particular state; it is in distortion of democratic choice and crisis of fundamental state legal institution - citizenship.

Over the centuries, citizenship has been the main state legal way of individual self-identification. Collective-individual goals and interests were paired only with national state development. Nowadays, citizenship is viewed as a universal privilege, providing a right of citizens to freely move and use unified standards in different realms of life regardless of citizen birthplace and current place of living.

Citizen views a government only in consumption context: it is a tool with which he realizes his creative needs. If government hinder him, he has a right for any form of protest which gradually taking a form of riot, «pointless and merciless», which becomes normal in capital cities of European countries. For example, mass disturbances in London (August 2011), Paris (2005, 2014), Madrid (2013), Kiev (2014), Hong Kong (2014, 2019), Belarus (2020) became widely known. However, these are only vivid projections that do not reflect day-to-day reality. In fact, whole districts of large cities around the world are out of police control. Official advices and recommendations to tourists and residents not to visit these districts are placed on police sites. Same districts have always existed. But only now they retain constant and mass character.

Modern democratic state organization built on free will of citizens is in danger. The reason is that, despite legitimacy of its organization and realization, choice is more and more based on external secondary factors.

Factors-sources are basically objective. They are a nature result of modern development. They cannot be drastically limited nor prohibited. However, it is vivid that quality changes in organization and operation system of democratic institutions that would take into consideration sufficient features of national security providing in modern conditions must be made [9].

Conclusion. Summing up, modern security system has two parts which role and meaning are principally changing comparing to pre-informational era: objective and subjective ones.

Objective part of security is a real condition and presence of threats and risks. Subjective part of security is an internal feeling of citizen – individual and collective connected with its perception of self-protection. Protection is always subjective and moving.

The main problem of modern state and society is that first time in history perception of self-protection started to dominate and form not on internal national factors and circumstances basis but following global and universal installations that appear and are actively being cultivated in social media.

Restriction and prohibition system on publishing and distribution of some kind of material in Internet social media will have only short-term effect and will not solve the main

problem – development and cultivating of collective fears appearing out of the borders of given state.

The solution of problems «bumps into» necessity of modern democratic state organization theory and practice review.

References

1. *Russian Federation Criminal Code dated 13.06.1996 № 63-FZ* (red. 06.07. 2016) Art. 205. (In Russian)
2. Federal Law dated the 27th of June, 2006 № 153-FZ «About alterations in separate law acts of Russian Federation due to enactment of Federal Law «About ratification of Europe Council Convention on terrorism prevention» and Federal Law «About terrorism prevention». (In Russian)
3. Lopatina T.M. Novyye vidy sovremennoy terroristicheskoy deyatel'nosti [New types of modern terrorism Modern law]. *Sovremennoye pravo* [Modern law]. 2012, no 4, pp. 122-126. (In Russian)
4. Neisbit D. *Megatrendy`* [Megatrends]. M., 2003, 229 p. (In Russian)
5. TreatyofLisbon.Tit. II, Art. 8 B (1-4)
6. Habrieva T. Ia., Chirkin V. E. *Teoriya sovremennoj konstituczii* [Modern constitution theory]. M., 2007, 314 p. (In Russian)
7. Kapitsa S.P., Kurdiymov S.P., Malinetskyi G. G. *Sinergetika i prognozy` budushhego* [Synergy and forecasting]. M., 2001, 6 p. (In Russian)
8. Sokolova S.N., Seniv Yu.M. Informaczionnoe pravo i gosudarstvennoe regulirovanie informaczionnoj bezopasnosti [Informational law and government regulation of informational]. *Informaczionnoe pravo* [Informational law]. 2013, no 2(33), pp. 3-7. (In Russian)
9. Sokolova S.N., Sokolova A.A. Mezhdunarodnaya bezopasnost` v informaczionnom obshhestve: osnovny`e funkczii gosudarstvennogo regulirovaniya [International security in informational society: key government regulation functions]. *Informaczionnoe pravo* [Informational law]. 2018, no 3, pp.4-7. (In Russian)

Список литературы

1. Уголовный Кодекс Российской Федерации, от 13.06.1996 № 63-ФЗ (ред. 06.07. 2016) Ст. 205
2. Федеральный закон от 27 июня 2006 г. № 153-ФЗ "О внесении изменений в отдельные законодательные акты Российской Федерации в связи с принятием Федерального закона «О ратификации Конвенции Совета Европы о предупреждении терроризма» и Федерального закона «О противодействии терроризму».
3. Лопатина, Т. М. Новые виды современной террористической деятельности / Т. М. Лопатина // Современное право, 2012. – № 4. – С. 122-126.
4. Нейсбит, Д. Мегатренды / Д. Нейсбит. – М., 2003. – С. 229.
5. Treaty of Lisbon.Tit. II, Art. 8 B (1-4)
6. Хабриева, Т. Я. Теория современной конституции / Т. Я. Хабриева, В. Е. Чиркин. – М., 2007. – С. 314.
7. Капица, С. П. Синергетика и прогнозы будущего / С.П. Капица, С. П. Курдюмов, Г. Г. Малинецкий. – М., 2001. – С. 6
8. Соколова, С.Н. Информационное право и государственное регулирование информационной безопасности / С. Н. Соколова, Ю. М. Сенив // Информационное право. 2013. – № 2(33). – С. 3-7.
9. Соколова, С. Н. Международная безопасность в информационном обществе: основные функции государственного регулирования / С. Н. Соколова, А. А. Соколова // Информационное право. 2018. – № 3. – С.4-7.