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APPLICABLE LAW IN INTERNATIONAL TERRORIST THREATS AND ATTACKS AND THE CONSEQUENCES OF *ERROR IN PERSONAM*

SOMCHARTI SUCHARITKUL¹

Three years have passed since the fall of the twin towers and yet public international law remains too murky and inadequate to offer a comprehensive prohibition regime or a universally acceptable definition of terrorism. Many authors have already examined the necessity of such a definition² and some have criticized the usefulness of the definition itself.³ As we search for this definition, the world financial order, the in-

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2. See, e.g., R. Calduch Cervera, *La incidencia de los atentados del 11 de septiembre en el terrorismo internacional*, 53 REVISTA ESPAÑOLA DE DERECHO INTERNACIONAL 173 (2001); J. A. Frowein, *Der Terrorismus als Herausforderung für der Völkerrecht*, ZEITSCHRIFT FÜR AUSLÄNDISCHES ÖFFENTLICHES RECHT UND VÖLKERRECHT 879 (2002); G. Guillaume, *Terrorisme et le droit international*, 215 COLLECTED COURSES FROM THE HAGUE ACADEMY OF INTERNATIONAL LAW 293 (1989); E. Hugues, *La notion de terrorisme en droit international: en quête d'une définition juridique*, JOURNAL DE DROIT INTERNATIONAL 753 (2002); Y. Jurovics, *Les controverses sur la question de la qualification du terrorisme: crime de droit commun, crime de guerre ou crime contre l'humanité*, in LE DROIT INTERNATIONAL FACE AU TERRORISME 95 (K. Bannelier, et al. eds., 2003) (Fr.); S. Telhami, *Conflicting Views of Terrorism*, 35 CORNELL INT'L L.J. 581 (2002), S. Tiefenbrun, *A Semiotic Approach to a Legal Definition on Terrorism*, 9 ILSA J. INT'L & COMP. L. 357 (2003). These authors consider that the search for a universally acceptable definition of terrorism is necessary.

3. See, e.g., R. Higgins, *The General International Law of Terrorism*, in TERRORISM AND INTERNATIONAL LAW 13 (R. Higgins & M. Flory eds., 1997) (Eng.); P. Mertens, *L'introuvable acte de terrorisme*, in RÉFLEXIONS SUR LA DÉFINITION ET LA RÉPRESSION DU TERRORISME 39 (Centre de droit international et Association belge des juristes démocrates eds. 1974) (Belg.); E. Konstantinov, *International Terrorism and International Law*, GERMAN YEARBOOK OF INTERNATIONAL LAW 293

ternational flow of capital, and even the most basic human rights are being adversely affected as a result of post-September 11 anti-terrorism policies.⁴ These obstacles are deplorable since even United Nations Security Council Resolution 1373, one of the essential instruments designed to combat terrorism, fails to define terrorism. Consequently, criticisms over the abuse of power or the inefficient implementation of Security Council imposed counterterrorist measures are not uncommon.⁵

The objective of this paper is neither to reiterate the diversity of definitions nor to corroborate a particular position on the concept of international terrorism but to facilitate the search for the definition of international terrorism, which seems to be of immediate and urgent priority in the context of 21st century globalization. In my attempt to identify the contemporary core terrorist threat, I will first focus on a model of distinction based on the applicable law in Part I. I will discuss why this model is appropriate and compatible with the trends of international law dealing with international terrorism. In Part II, I will give a brief exposition of the risks associated with the proposed model, namely the risk of *error in personam*, an unavoidable risk inherent to the model proposed, especially when a State, exercising its right to self-defense, is under extreme pressure or under circumstances of exception.

I. APPLICABLE LAW IN INTERNATIONAL TERRORIST THREATS

Does the international community have sufficient resources to take efficient measures against all forms of terrorist threats? If so, there is no need to prioritize any particular form of terrorism. However, prioritization may benefit lesser developed countries that may encounter difficulties in enforcing stricter police measures. After all, international security depends on the effort of every member of the international community in implementing preventive and repressive measures against terrorism. In my attempt to concretize the more serious terrorist threats from the less serious cases, I will first identify terrorist activities that are already treated under the laws of war (1), then I will focus on the characteristics of terrorist activities that should not be regulated by the laws of war (2).

(1988). These authors do not believe that it is essential to reach a consensus on the definition of terrorism.

4. For a general overview on how the global financial market is affected by contemporary counterterrorist policies, see, e.g., L. Condorelli, *Les attentats du 11 septembre et leurs suites: où va le droit international*, 105 REVUE GÉNÉRALE DE DROIT INTERNATIONAL PUBLIC 829 (2001).

5. See, e.g., Hugues, *supra* note 2, at 768. The author comes to the conclusion that the efficiency of United Nation Security Council (U.N. SCOR) Resolution 1373 depends greatly on the precision of the definition of terrorism.

A. ABSORBING THE 'SELF-DETERMINATION EXCEPTION' BY THE LAWS OF WAR

After the Second World War, the international community radically prioritized the problem of international terrorism. This prioritization occurred on the global level, as reflected in the agenda of the United Nations General Assembly (UNGA) and the United Nations Security Council (UNSC),⁶ as well as on the regional level – especially among integrationist organizations such as the European Union (EU), the Organization of the Islamic Conference (OIC) and the Association of South-East Asian Nations (ASEAN). Consequently, the search for the most appropriate solution among States for the fight against terrorism loses its direction when it stumbles upon the 'self-determination exception' vigorously sustained by a number of States.⁷ According to its original conception, the oppressed peoples under colonial rule, apartheid regime, or foreign domination should not be deprived of their right to struggle against the oppressive regime through violent means.

Although the 'self-determination exception' inspired the international community's confidence in confirming an absolute prohibition on international terrorism, its original content had become somewhat obsolete in the 21st century since the problems of foreign domination, as conceived in the colonial period, had practically disappeared. Nevertheless, State practice suggests that the 'self-determination exception' has progressively transformed into the controversial right of the minorities to struggle against an oppressive regime.⁸ Accordingly, this transformation had complicated the progress of international cooperation between States on the 'war against terrorism' because the extent of a minority's right to struggle against an undemocratic regime remains unclear in contemporary international law. Certainly the study of the rights of minorities can not be completely covered within the scope of this paper but a distant consideration of the 'self-determination exception' is sufficient to conceptualize its possible regulation under *jus in bello*. This can be done by

6. See, e.g., U.N. Doc. A/RES/3034 (XXVII).

7. Claims for the self-determination exception coming from States such as Cuba, Libya, Kuwait and Syria can be found in U.N.Doc. A/P.V.2038-2063 & 2114. Other States such as Saudi Arabia and Yemen subject their implementation of U.N. SCOR. Res. 1373 to the self-determination exception or the definition of terrorism as understood in the Arab Convention for the Suppression of Terrorism (available at <<http://www.al-bab.com/arab/docs/league/terrorism98.htm>>. See, e.g., U.N. Doc. S/2003/583 at 15 and S/2002/240 at 3.

8. See, e.g., J. Verhoeven, DROIT INTERNATIONAL PUBLIC 291-295, (Larcier eds. 2000) (Belg.). However, Professor Verhoeven notes that it is more likely that the rights of the "peuples non coloniaux" would develop parallel to the rights of individuals rather than parallel to the rights of a nation. *Id.* at 294.

distinguishing between peacetime and wartime terrorism, but is this distinction appropriate?

The dispute over the submission of certain forms of terrorism to *jus in bello* finds its roots in two opposing schools: on the one hand, the continental European school⁹ advocates the distinction between peacetime and wartime terrorism; on the other hand, the Anglo-Saxon countries¹⁰ reject this distinction as they view terrorism as 'low intensity warfare' and opt for the absolute necessity to eliminate all forms of terrorism at whatever cost.

As a result of this doctrinal discussion, the United Kingdom and the United States take the responsibility to wage an abstract and general 'war on terrorism,' sometimes in the name of self-defense, at other times in the name of the international community. The two allies seek to eliminate *all forms of terrorism*, be it international or internal. Despite the goodwill of these propositions, they do not appear to be proportionate to the time and budget-restrained resources of the international community which could be more efficiently allocated otherwise.

On the contrary, the European school aims at the prioritization of certain kinds of terrorism which should single-out and eventually become objects of a comprehensive conventional regulation. In this sense, it would be best to distinguish between wartime and peacetime terrorism. Although the two types of terrorism share common characteristics, such as the use of force against civilian objectives, they are substantially different. Under contemporary international humanitarian law, wartime terrorism is already covered and typified as "war crimes;" this qualification covers international armed conflicts (where there are at least two States involved) as well as internal armed conflicts or civil struggles (where there is only one State present). According to this regime, non-humanitarian intervention in an internal armed conflict without the territorial State's consent would amount to a violation of the general prohibition on the use of force. In the case of terrorism in the context of an international armed conflict – where terrorist activities committed against the 'Victim State' are unquestionably attributable to the 'Aggressor

9. For a view on the European school's distinction theory between peacetime and wartime terrorism, *see, e.g.*, Calduch Cervera, *supra* note 2, at 191; and G. WARDLAW, *POLITICAL TERRORISM*, 74-77 (Cambridge, 1984).

10. For a comparison between the U.S./U.K./Israeli 'low intensity warfare' theory and the European school's distinction between peacetime and wartime terrorism, *see* Calduch Cervera, *supra* note 2, at 190. For a more detailed explanation on the U.S.'s tendency to qualify terrorism as an armed conflict, *see also* P. Wilkinson, *The Role of the Military in Combating Terrorism in a Democratic Society*, 8(3) *TERRORISM AND POLITICAL VIOLENCE* 1 (1996); U.S. Department of Defense, *1997 ANNUAL DEFENSE REPORT* (1998).

State' – armed intervention would be permissible in favor of the Victim State in the form of collective self defense. Up to this point the solution is clear and evident in the light of contemporary international law.

The problem arises when the attacks can not be unequivocally attributed to any particular state. In such a case, the application of the laws of war would depend solely on the quality of the author of the aggression. Although this inconvenience remains inherent to the wartime / peacetime terrorism distinction theory, the methods for overcoming this inconvenience will be discussed in part II of this paper. For the purpose of this note, it is sufficient to say that wartime terrorism (including international armed conflicts as well as non-international armed conflicts) should be explicitly excluded from the 21st century's 'global fight against terrorism' because the type of terrorism actually under scrutiny is peacetime terrorism which is seriously disturbing the unavoidable globalization process.¹¹

B. IDENTIFYING PEACETIME TERRORISM

Peacetime terrorism is an internationally organized crime which clearly distinguishes itself from other common crimes which are contained in a single legal criminal system. In this sense, peacetime terrorism should exclude sporadic and individual attacks since they are not organized and thus, do not require complex preventive or repressive measures. On the contrary, incidents such as the September 11th attack or the more recent Atocha train station bombing (March 11, 2004)¹² are made possible due to complex and skillful planning. The measures adopted in U.N. SCOR Res. 1373 are most efficient to combat this type of organized crime.

The second characteristic of peacetime terrorism lies in its objective. In a study of different generations of terrorism,¹³ we find that the type of terrorism that imposes the greatest threat today is not one which attacks a single state but one which attacks certain principles which are common to a community of states. This class of objective propagates an especially serious threat to international peace and security because it is not

11. The implementation of the U.N. SCOR Res. 1373 requires reinforcement of preventive measures which leads to disturbances in the international financial and investment sectors. These measures have been vigorously criticized by various authors. See, e.g., S.D. Murphy, *International Law, the United States, and the Non-Military "War" Against Terrorism*, 14 EUR. J. INT'L L. 347 (2003); F. Megret, *War? Legal Semantics and the Move to Violence*, 13 EUR. J. INT'L L. 361 (2002).

12. A summary of the Atocha attack can be found at <http://en.wikipedia.org/wiki/March_11,_2004_Madrid_attacks>.

13. The third generation of international terrorism is also known as terrorism without boundaries. See, Th. Bruha, *Gewaltverbot und humanitäres Völkerrecht nach dem 11. September 2001*, ARCHIV DES VÖLKERRECHTS 383 (2002).

confined to any single territory or state but it targets the entire international community itself. It is therefore convincing to refer to the authors of these crimes as *hostes humani generis*.¹⁴

The third characteristic of peacetime terrorism is the presence of an international element, resulting in the involvement of more than one legal system. Parallel to familiar concepts of private international law, a terrorist incident which has no international element is nothing more than a common crime and the duty to prevent and repress the crime would fall on the state in which the attack occurred – the Victim State. However, when the terrorist organization enjoys a sophisticated transnational structure through foreign funds, donations, or various ‘cells’ established throughout the world, or when the terrorist organization targets its attack against foreign soil or against foreign victims, it has bypassed the ‘municipal’ threshold and it qualifies as international peacetime terrorism.

Through the application of the above proposition, the international community can focus its efforts appropriately on a specific type of terrorism – international peacetime terrorism – which deserves to be prioritized for its greatest scale of threat against international peace and security. The application of preventive and repressive measures imposed by U.N SCOR Res. 1373 and, to a certain extent, by general international law could be unequivocally aimed at and limited to these situations. From a legal-economic point of view, the resources of countries with more limited military expenditures could be more efficiently employed in the peacetime ‘war on terrorism’ – in its highly political sense.

This prioritization of problems does not resolve the lack of transparency when it comes to attribution of terrorist attacks to states. However, the problem of attribution may be illusory when viewed from the perspective of legitimate defense and state responsibility for internationally wrongful acts, especially when there is a circumstance precluding wrongfulness.

II. LEGITIMATE DEFENSE AND CONSEQUENCES OF ERROR *IN PERSONAM*

According to the outline exposed above, wartime terrorism is clearly distinguished from peacetime terrorism. As a result, the Victim State of a peacetime terrorist attack may not have recourse to military intervention under the color of legitimate defense against the perpetrators of peacetime terrorism who reside in another state. Because these perpetra-

14. There is a trend to include terrorism among crimes against humanity. See, e.g., V.D. Sharma, *International Crimes and Universal Jurisdiction*, 42 INDIAN J. INT'L L. 139 (2002).

tors are not states but private individuals, the conflict would not fall under conventional or interstate warfare.

This is easier said than done because in reality legitimate defense is a legal concept which comes into operation in exceptional circumstances. When extreme circumstances impose an immediate threat, the Victim State's government is often subjected to political and popular scrutiny which may impair or adversely affect its capacity to assess the facts. Even still, the subjectively clear and present danger provides apparently legitimate grounds for a Victim State to make hasty decisions, even if the decisions were based on conclusions drawn from incomplete facts.

Despite the doctrinal arguments on the interpretation of Article 51 of the United Nations Charter, there are a number of authors who are convinced that the right to self defense is a natural, fundamental, and inalienable right of a state which can not be superseded by the institutional framework of the Charter itself.¹⁵ One of the most outstanding consequences of this interpretation is that the Victim State itself retains the exclusive right to appreciate and consider the facts and to decide if it is appropriate or not to proceed to legitimate defense. Accordingly, the Victim State could engage in a conventional war against an alleged 'Perpetrator State' when the right to self defense is wrongfully founded as a result of an *error in personam*.

Indeed, the applicable law for the repression of the terrorist attacks depends strongly on the nature of the subject who had organized these attacks – in this case we refer to the subjects who are immediate authors or co-authors of the attack, excluding accomplices. If it turns out that the acts are directly attributable to the accused Perpetrator State in conformity with the control test,¹⁶ as it is mentioned in article 8 of the draft articles on state responsibility, adopted by U.N. GAOR Res. 56/83 or as underlined in the *Nicaragua Case*¹⁷ or the *Tadic Case*,¹⁸ the laws of war

15. See, e.g., M.E. O'Connell, *Lawful Self-Defense to Terrorism*, 63 UNIVERSITY OF PITTSBURGH LAW REVIEW 889 (2002); T. M. Franck, *Editorial Comments: Terrorism and the Right to Self-Defense*, 95 AM. J. INT'L. L. 839 (2001).

16. For a more detailed and profound synthesis of attribution and the control test, see C. Stahn, *International Law at Crossroads? The Impact of September 11*, ZEITSCHRIFT FÜR AUSLÄNDISCHES ÖFFENTLICHES RECHT UND VÖLKERRECHT 183 (2002); see also J. Verhoeven, *Les 'étirements' de la légitime défense*, ANNUAIRE FRANÇAISE DE DROIT INTERNATIONAL 49 (2002).

17. *Military and Paramilitary Activities (Nicar. v. U.S.)*, 1986 I.C.J. 14 (June 27). Since there was no clear evidence that the U.S. actually exercised effective control over the Contras, the U.S.'s assistance to the paramilitaries was not sufficient for the purpose of attributing the militia's actions to the U.S. *Id.* at 146.

18. *Prosecutor v. Tadic*, 38 I.L.M. 1518 (1999). The International Criminal Tribunal for the Former Yugoslavia held that it was not necessary to satisfy the specific control test and that the overall control test was sufficient to attribute the acts of the militias to a State.

would be applicable and the emerging problem of 'wartime terrorism' would be covered by the overwhelming violation of the prohibition on the use of force by the Perpetrator State. Consequently, the Victim State would then be entitled to self defense under *jus ad bellum*.

However, if the attribution test fails, the laws of war do not apply and the 'Victim State'¹⁹ – although a 'victim' of a terrorist attack of a great scale – would have to resort to repressive and preventive measures that are compatible with the rules of public international law that normally govern the intercourse of states in times of peace. Under contemporary international law the Victim State would only be able to resort to peacetime counterterrorist measures such as the ones covered in Res. 1373.

Nevertheless, the attitude of the alleged Perpetrator State is contributory to the *error in personam* of the Victim State. Contemporary state practice shows that states have a tendency to deny their links to terrorist activities when being exposed to international scrutiny. This rejection can be verbal, by denouncing or openly condemning the attacks,²⁰ or it can be substantial, through the adoption and/or the enforcement of repressive measures against the terrorist activities,²¹ namely through the prosecution of alleged perpetrators or their extradition to the Victim State. Evidently, the sole fact that the accused state does not promptly deny its links with terrorist activities does not imply that it is actually supporting, harboring, financing, or engaging in these activities. However, the prolongation of

19. The expression is used in quotation marks to underline the subjectivity of the quality of the Victim State since it is the self-proclaimed Victim State itself that attempts to gather evidence to attribute the terrorist attacks to a Perpetrator State.

20. See, e.g., *Military and Paramilitary Activities*, *supra* note 17 at 67, 130; *Id.* at 156 (separate opinion of Judge Singh). The U.S.'s "legal tradition of respect for the judicial process and human rights" was reflected in its attempt to recall copies of the CIA manuals. In this manner, the U.S.'s demand for the Contras to ignore the manual could be seen as an attempt to interrupt the mechanism of attribution under international law. As a result, the Court held that the CIA manual does not provide a basis for concluding that the acts of the paramilitaries are imputable to the U.S. *Id.* at 148; see also, *United States Diplomatic and Consular Staff in Tehran*, 1980 I.C.J. 3. In this case, the statements made by various governmental authorities in Iran amounted to an endorsement by the State of the acts of private people. *Id.* at 33, 34; see also, Libya's verbal notes to the U.N. <<http://web.ukonline.co.uk/pbrooke/p&t/Lockerbie/letter>>, in which Libya expresses its good will to implement U.N. SCOR Res. 1373.

21. Following the 9/11 attacks, many States have already adopted and/or reinforced measures designed to prevent and repress terrorism and its monetary support. State practice in the implementation of prevention and repression duties can be found at the U.N. Counter Terrorist Committee website <<http://www.un.org/Docs/sc/committees/1373>>. See also, e.g. Megret, *supra* note 11, at 382; S. von Schorlemer, *Human Rights: Substantive and Institutional Implications of the War Against Terrorism*, 14 EUR. J. INT'L L. 279 (2003); J.M. Sorel, *Some Questions About the Definition of Terrorism and the Fight Against Its Financing*, 14 EUR. J. INT'L L. 373 (2003).

the lack of transparency²² is likely to lead the Victim State to the *error in personam*,²³ given the urgency of the situation.

According to the rules of international responsibility, the use of force under the color of legitimate defense would not be an internationally wrongful act.²⁴ It is also arguable that even if the conditions of proportionality, necessity, and attribution are not met, the Victim State's armed intervention would still not be considered to be internationally wrongful if its assessment of the conditions of self defense were incorrect due to an *error in personam*. In this case, the Victim State could benefit from the *force majeure* exception according to draft Article 23 of the International Law Commission's Articles on State Responsibility²⁵ because the error could have been due to the 'irresistible' lack of transparency, making it impossible to verify the correctness of the intelligence reports on the relation between the terrorist group and the State that seems to harbor them. The admission of *error in personam* as a circumstance precluding wrongfulness finds its roots in the *cas fortuit* exception which was removed in the final draft articles. Authors, who are in favor of maintaining this exception, define *cas fortuit* as "an unforeseeable exterior element beyond the control of the State, as a result of which it is materially impossible to know that the adopted conduct is contrary to the obligation."²⁶ Despite the uncertainty of its applicability, this exception may recover its force as a *lex specialis*.²⁷

22. Before the armed intervention in Afghanistan took place, the Taliban government said that it would consider extraditing terror suspect Osama Bin Laden based on U.S. evidence. At the same time, Mr. Bin Laden has denied involvement in the attacks on the U.S. BBC News, (Sept. 12, 2001) <http://news.bbc.co.uk/1/hi/world/south_asia/1539468.stm>.

23. The incorrect assessment of the facts could lead to *error in personam*. After careful reassessment of the facts, the 9-11 Commission's Staff Statement No. 16 <http://www.9-11commission.gov/hearings/hearing12/staff_statement_16.pdf> suggests that the degree of the Taliban government's involvement with the 9/11 attacks may be less than what it was believed to be prior to the commencement of Operation Enduring Freedom.

24. See draft article 21 of U.N. GAOR Res. 56/83.

25. See U.N. Doc. A/RES/56/83; ILC Report, 56th Sess., Supp. No. 10 at 183-188, U.N. Doc. A/56/10.

26. See A. Gattini, *La notion de faute à la lumière du projet de convention de la Commission du Droit International sur la responsabilité internationale*, 3 EUROPEAN JOURNAL OF INTERNATIONAL LAW 270 (1999). In this article, the author defines *cas fortuit* as "l'événement extérieur imprévisible en dehors du contrôle de l'Etat, en raison desquels il est matériellement impossible de ... se rendre compte que la conduite adoptée n'est pas conforme à l'obligation"; see also (1979-II) Y.B. INT'L L. COMM'N 123 at §4.

27. The *cas fortuit* exception was not only defended by Roberto Ago, *special rapporteur* of the International Law Commission (ILC), but it is also contemplated in Article 91 of Additional Protocol I (June, 8 1977) to the Geneva Convention (August, 12 1949) for the protection of victims of armed conflict <<http://www.icrc.org/dih.nsf/0/ee8bb71eb1db5bb4c12563bd002dd11d?OpenDocument>>.

The preventive and repressive measures imposed by Res. 1373 contribute to the avoidance of these kinds of errors in the assessment and attribution of terrorist attacks to states. Such errors do not only disturb peaceful intercourse among states but they also create a threat to international peace and security. In the future, when States are faced with the dilemma on how to qualify the masterminds of a certain terrorist attack, they could interrogate the alleged Perpetrator State's compliance with the measures provided by Res. 1373. The accused State would then be obliged to report the measures it had taken to the Counter-Terrorism Committee and this Committee would independently approve or disapprove the accused State's efforts in repressing and preventing international peacetime terrorism.²⁸

The regime established by this resolution promotes transparency of threat management among States and reduces the chance of *error in personam* when dealing with grey-zone cases.

III. CONCLUSION

Terrorism is an abstract and general concept which calls for various applicable laws. While *jus in bello* is applicable to a State which carries out terrorist attacks against individuals during civil war or during an internal armed conflict, it is inapplicable to 'State sponsored terror' used to repress individuals, such as the terror policies in a totalitarian State where there is an absence of armed conflict. This does not preclude, of course, an application of the principles of minimum standards in the treatment of foreign nationals. On the other end, when a State carries out a terrorist attack against another State, the two subjects of international law could be engaged in conventional warfare and there is no doubt that *jus in bello* and *jus ad bellum* – including the right of self defense of the Victim State – would be applicable. However, when terrorist activities are carried out by individuals, it is almost always a case of peacetime terrorism (except when the individuals are engaged in an internal armed conflict against the State, as previously mentioned). Falling short of an armed conflict, crimes committed by individuals against other individuals – as horrible and as terrible as they may be – remain common crimes.

In order to safeguard the efficiency of U.N. Security Council Res. 1373, the international community needs to agree on a precise definition of its common enemy. To facilitate this process it would be productive to pri-

28. The U.N. Counter-Terrorism Committee was established by U.N. SCOR Res. 1373 to monitor the implementation of this resolution by all States and to increase the States' capability to fight terrorism.

oritize and single out international peacetime terrorism. Peacetime terrorism – the type of terrorism on which we should focus in the context of 21st century globalization – is limited to terrorist attacks committed by individuals against a State or against the international community (or otherwise designated as 3rd generation terrorism²⁹). It is towards these types of terrorism that U.N. Security Council Res. 1373 is crafted to prevent and repress.

29. See Bruha, *supra* note 13.