

OPPOSING JIHADISM – AN ONSET FOR A CURE

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Jihadism is a violent and radical fundamentalism and it has emerged as this century's nightmare. It follows the same dark path as last century's ideological nightmares: fascism and Soviet-styled communism. Jihadism is a political ideology with global ambitions. It wants to establish a worldwide caliphate by rejecting and destroying the current state system. Jihadists strive for the collapse of the economies and the governments of our society. They want to overthrow the moderate, modern nations and to replace them by a caliphate. Jihadism does not recognize borders, and the drive to globalization even strengthens them in this belief. Jihadists like internet and new technologies as a tool to destroy the state system and to spread their message into Europe and other places outside the traditional sphere of Islam. They try to convince Muslims in Europe to join jihad. I would like to address the question how to deal with private armies and their members. We can make analyses on jihadism, on the spread of violent Islam in Europe, but these efforts must lead to a strategy to combat them. We need a cure now.

Military tribunals must put members of private armies on trial.

Since jihadists reject state systems – an invention of the European Westphalian world order – they establish private armies. Private armies created by jihadism have multiple faces and a multitude of names such as Hezbollah, Hamas, Al Qaida, Armed Islamic Group (GIA – Algeria), Harakat-UI-Jihad-UI-Islami (Bangladesh), Jaish-e-Mohammed (Kashmir), Mehdi Army of Iraq, Millat-E-Islami (Pakistan), Tanzim Qu'adat al-Jihad fi Bilad al-rafidayn (Jordan), the Islamic Movement of Uzbekistan. And I do not mention the Southeast Asian cluster of private jihadist armies. In news reports various terms are used to refer to those private armies such as terrorist cells, insurgents, militia, fighters ... But we may never forget

that only states have the monopoly on the use of force. The UN Charter only recognizes use of force by states for specific and limited purposes. And only states have the right to maintain armed forces. We must rescue international law by denying these private armies any aspect of legality. Since members of private armies do not have the right to take up arms, they cannot be treated as prisoners-of-war with the privileges and guarantees of the Third Geneva Convention. If captured in battle or elsewhere, they should be tried outside the common criminal justice system. Unfortunately the laws of war are not developed on the status of members of private armies and their punishment since the laws of war were drafted at a time of inter-state wars. Remember that the four Geneva conventions were adopted in 1949 and based on WWII experiences which was a global war between states. The lack of specific rules on the punishment of members of private armies creates much confusion today. On CNN one can see a flashy picture of an American lawyer waiving with the ICRC booklet containing the four Geneva conventions when detainees at Guantanamo Bay were discussed. This is complete confusion in front of a world audience. State practice must take the initiative to establish specific rules on the captivity, treatment and punishment of members of private armies, including those called members of terrorist cells in Europe. The US has done this by the 'Military Commissions Act' of October 2006, adopted by bipartisan approval in Congress. Israel has done this by the 'Imprisonment of Unlawful Combatants Law' (5726-2002) of 2002. Russia and China have similar legislation. Unfortunately, European states did not enact such laws and in the meantime this perceived legal vacuum is filled with legal proceedings before the tribunals and courts under the common criminal system. Moreover, the judiciary is least qualified for determining legal and policy questions related to crucial security matters. Criminal tribunals are not fit because they operate in a peacetime legal context. Governments and parliaments are best equipped to devise specific rules for the detention and punishment of private armies, and the best way to do so is by military tribunals in Europe. This is much needed state practice and Europe lags behind, it even gives the impression of denying the existence of private armies and how to deal with them. Terrorist cells in Europe should be regarded as private armies and their punishment should be done by military tribunals. Unfortunately, the issue of military operations against

and punishment of members of private armies is simply not on the EU's agenda. Usually anti-terrorism laws are applicable in Europe, but this does not solve the problem of the treatment of captured terrorists/members of a private army in say Afghanistan or Iraq. How does the Dutch or Belgian army deal with such prisoners in Afghanistan? This question is urgent taking into account that a lot of nations are participating in UN military missions in Central Asia and Africa.

NATO and the 'Shanghai Cooperation Organization'.

I agree with the words of US governor Mitt Romney of Massachusetts spoken at the seventh annual Herzliya conference (2007) and the suggestion made by former Spanish Prime Minister Aznar, that a central purpose of NATO should be to defeat radical Islam. It implies that European states spend more on defense than they do now. Complicated and long-term military operations require an army with efficient numbers of troops, modern equipment and intelligence-gathering capacity. We do not have this level in European states today. We are ill-prepared to defend ourselves against a global jihadist threat in a global theatre. NATO has served Europe well for the last 50 years and should be able to continue his mission with the troops and equipment needed now. Above all, troops and the public opinion should be reminded continuously that they are fighting for freedom and democracy. In the case of Iraq this is poorly done and only occupation is mentioned. According to news reports UK troops are poorly motivated and the British opinion does not entirely understand that operations in Iraq serve freedom and democracy, not only for Iraq but also for the survival of democracy in the global fight against jihadism.

Another security organization should also be mentioned today. It is the 'Shanghai Cooperation Organization', a grouping of Russia, China and a number of 'stan's' established in 1996. The organization focuses on terrorism, extremism and separatism. In August 2007 they have conducted a joint military exercise against terrorist units. Russia is threatened by jihadists in Chechnya and elsewhere, whereas China borders Islamic states and its western province Xinjiang is predominantly Muslim. India is an observer to SCO and is also attacked by jihadists,

mainly operating from Pakistan or Bangladesh. Instead of rivaling NATO – there is Russian and Chinese suspicion of US policy in Central Asia - SCO should be seen and developed as a tool against jihadism which is a real threat in Central Asia. We should encourage SCO states to work with NATO and with the US and Europe in the UN Security Council. But people see Russia refusing to end its cooperation with Iran's nuclear program, and wonder about the Caspian Summit of October 16, 2007 with Islamic Iran and an autocratic Kremlin side by side. Iran and Russia are not natural partners but they have a joint negative interest, that of limiting US influence in the Middle East and Central Asia. The Kremlin's views are distorted by seemingly giving greater priority to its rivalry with the US than the common interest of combating the global threat of jihadism

Iran: War by Proxy.

The heart of the Jihadist threat today is Iran. This country is already conducting for many years a war by proxy against the USA and Europe. Iran's leaders and ambitions represent the greatest threat to the world since the fall of the Soviet Union, and before that, Nazi Germany.

Looking around me I see many people who understand that Iran must be stopped, but they think it's impossible. They see the modest sanctions that the UN took three years to produce. Citizens conclude that the UN Security Council will never produce sanctions tough enough - and soon enough - to stop Iran from acquiring a nuclear weapon.

What is less appreciated, however, is what the US and Europe can do. Yes, we should continue to encourage China and Russia to work with us at the UN Security Council.

The Islamic Republic of Iran has threatened to wipe Israel off the map of the world. This amounts to a threat to commit genocide. All states have the international obligation to prevent such disaster to happen. The full title of the Genocide Convention is the 'Convention on the Prevention and Punishment of the Crime of Genocide'. Prevention is much more important than punishment. Article III of the treaty establishes that 'public incitement to commit genocide' is a punishable crime. Every signatory to this treaty shares an obligation to enforce it. Russia and

China are state parties to the Genocide Convention, and legally bound to prevent it happening. Russia and China should realize that a jihadist Iran is a great danger at their doorsteps.

Iran conducts a war by proxy: it uses and supports private armies to strike at its perceived enemies of the West, for at least 28 years, and the West has still to react.

I agree with the legal and political opinion that the inherent right to self-defense not only applies against terrorist/jihadist armies but also against those states which support such private jihadist armies. This was exactly the reason why coalition forces started military operations against the Taliban regime of Afghanistan in October 2001. States conducting a war by proxy are accountable for such acts and become an enemy state.

State support of terrorism by militia has been condemned by numerous treaties and UN Security Council resolutions. UN Security Council Resolution 1373, adopted shortly after September 11, expressly recognizes the inherent right of states to self-defense against both terrorist groups/private armies and their state sponsors. Hezbollah is a well known proxy of the Islamic Republic of Iran. It is remarkable that Hezbollah features on the list of terrorist organizations of the US and the UK, but not on the EU list because France opposes listing of Hezbollah. Where are our members of the European Parliament to take action against such a duplicitous EU policy?

Without doubt, the Islamic Republic of Iran and its proxy militia are constantly violating international law. But who cares? Who will enforce international law? If we want to defeat jihadism in Europe, we should fight jihadist regimes wherever they may be. And they are outside Europe. Because jihadist countries and regimes are the main sponsors of jihadism in Europe, although always in a concealed way, they should be warned that Europe might take military action against such states and their regimes. No jihadist regime can be safe anymore because upholding the rule of international law has become too critical for the survival of our society and values. If we want to conquer jihadism in Europe, we should send a clear message to the capitals of jihadist regimes. Law enforcement in Europe itself is simply not good enough anymore.

Conclusion

The war against jihad involves a proper legal framework that enables our governments and agencies to act efficiently. Since jihadist terror groups or private armies are conducting a real war against our society, we need military tribunals to deal with them instead of corroding and misusing the common criminal system. At the same time state practice, by means of national legislation, should develop specific rules within the body of the laws of war, a neglected aspect for a new type of war.

NATO is a successful organization for our defense and should be encouraged to continue its mission with emphasis on fighting jihadism in the world. However, troop levels are not sufficient, defense spending is not enough in Europe, and NATO's contemporary mission is still unexplained before the public at large. But NATO is not alone to act. The Shanghai Cooperation Organization was created to fight the spread of terrorism which is the jihadist threat in the first place. Some common platform is needed between the two security organizations, including common political action in the UN Security Council.

Finally, the fight against the spread of radical Islam into Europe cannot be won in Europe itself. The source of Islamic jihadism is outside Europe and it is nurturing jihadism inside Europe. Jihadism cannot survive without Islamic regimes supporting the jihadist view or tolerating it within their borders. Therefore military action will remain a necessary tool to turn the jihadist tide. And international law is definitely not on the side of jihadist regimes and their proxy armies. Democracies can be under threat for some time, but in the end head-on confrontation is unavoidable. This is exactly the lesson learnt from the 20th century when democracies declined to face a direct confrontation, but were forced to react when their very survival was at stake.