

Version of 26 September 2013

**Law and Terrorism in the International System: History and Present State**

**Course Content**

This seminar is offered for the Course of Studies in "International Relations".

This seminar sheds light on the complex and dynamic relations between international terrorism and the legal responses to it. It will do so by placing the phenomenon against its historic background, elucidating how earlier generations have responded to challenges deriving from terrorism and how that has influenced international law. Special emphasis will be put on the problem of fighting international terrorism efficiently while, at the same time, safeguarding important international norms, not least in the field of human rights or humanitarian law.

One of the primary objectives of this course is to trace back and to highlight the reactions of international law to the threats posed by terrorism and to discuss to which extent the solutions found were effective and continue to be effective in the new century. This seminar is hence of a multidisciplinary nature at the crossroads of history and international law: It puts current international legal norms into the historical context by also analysing how they can be improved in the future.

The course will be taught in English.

**Goals**

- contribute to a better understanding of the history and evolution of terrorism and point out the changes that both means and motives of terrorism have undergone
- further the understanding of legal responses to terrorism and the relationship between those responses with other fields of international law (human rights, *ius in bello*, etc.)
- further the multidisciplinary analysis of relevant topics and promote team skills
- combine legal and historical methodology with practice-oriented policy memos
- possibility to write paper in English so as to have a 'writing sample' for future applications
- improve the students' skills to write a short and concise analysis of a situation by writing policy memos

### **Course structure and schedule**

- maximum of 20 students
- 'Blockseminar': distribution of paper and presentation topics at the beginning of the semester. Intensive seminar of 3 days (dates tbd). Papers should be sent to the instructors and colleagues at least 2 ½ weeks prior to the presentations.
- Interactive seminar: after a brief general introduction into the topic by the instructors, students will present their case studies of terrorist acts or counterterrorism reactions and will then elaborate on the legal responses to those acts. They should address to which extent those responses were adequate and efficient. Another student will then present a brief policy memo to initiate and stimulate discussions.
- Course Assessment: paper (2500 words pages per student, excluding footnotes [no excessive use of footnotes!] and bibliography), presentation (15 minutes per topic), policy memo (one page), participation in class.
- Any questions should be addressed to the instructors by email.
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  - Dr. Joris Larik: [joris.larik@ggs.kuleuven.be](mailto:joris.larik@ggs.kuleuven.be)

### **Topics**

#### **Introduction: 'One man's terrorist is another man's freedom fighter'**

Introduction to the history of terrorism: What is terrorism? From the zealots to the 'Fourth Wave of Modern Terrorism' (Blumenau)

*Required reading:*

Rapoport, David C. "The Four Waves of Modern Terror: International Dimensions and Consequences." In *An International History of Terrorism. Western and Non-Western Experiences*, edited by Jussi M. Hanhimäki and Bernhard Blumenau, 282-310. Oxon: Routledge, 2013.

Legal background: Problems of a universally-accepted definition in light of liberation movements and the changing concept of 'security' (Larik)

*Required readings:*

Czarnetzky, John. "Terrorism and International Law: Past, Present, and Future." In *Terrorism's Unanswered Questions*, edited by Adam Lother and Beverly Lindsay, 60-79. Westport, Conn.: Praeger Security International, 2009.

Frowein, Jochen. „Der Terrorismus als Herausforderung für das Völkerrecht“, *ZaöRV* 52 (2002), 879 ff.

Higgins, Rosalyn. "The General International Law of Terrorism." In *Terrorism and*

International Law, edited by Rosalyn Higgins and Maurice Flory, 13-29. London and New York: Routledge, 1997.

### Topic I: Terrorism during the 'Long 19<sup>th</sup> Century'

Anarchists, International Conference of Rome for the Social Defense against Anarchists 1898, St Petersburg Protocol of 1904

### Topic II: Early Traces of an Organised International Response: the League of Nations and Terrorism

Nationalist Terrorism, Anarchist Terrorism and the League of Nations Convention on Terrorism

### Topic Area II: Terrorism and Civil Aviation

The Dawson's Field Crisis of 1970, Entebbe 1976 and the *Landshut* Crisis of 1977; 1963 Convention on Offences and Certain Other Acts Committed On Board Aircraft; 1970 Convention for the Suppression of Unlawful Seizure of Aircraft; 1971 Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation; 1988 Airport Protocol; optional: 1991 Convention on the Marking of Plastic Explosives for the Purpose of Detection

### Topic Area III: Terrorism and Hostage-Taking

Munich 1972, Stockholm 1975, Tehran 1979-1981; 1973 Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons; 1979 International Convention against the Taking of Hostages

### Topic Area IV: Maritime Terrorism

1985 *Achille Lauro* hijacking; 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 2005 Protocol, perhaps: 1988+2005 Fixed Platform Protocols

### Topic Area V: Terrorism and WMD

1995 Tokyo Tube attack with lethal gas, 2001 Anthrax letters in the USA; 1980 Convention on the Physical Protection of Nuclear Material; 1997 International Convention for the Suppression of Terrorist Bombings; 2005 International Convention for the Suppression of Acts of Nuclear Terrorism; compare with NPT and conventions against chemical and biological weapons

Topic Area VI: 'War on Terror'?

9/11 and the war in Afghanistan, Guantanamo Bay; self-defence against terrorist acts, applicability of *ius ad bellum*, *ius in bello*, human rights standards

Topic Area VII: Stopping the Financing of Terrorism

The 'Terrorist-Criminal Nexus' after the Cold War; 1999 International Convention for the Suppression of the Financing of Terrorism; UNSC Resolutions 1267 & 1373 + subsequent resolutions

Topic Area VIII: Regional Counterterrorism Efforts & Legal Multilevel Problems

European terrorism in the 1970s (Italy, France, Spain); CoE Convention of 1977 (optional: compare with 1999 Convention of the Organization of the Islamic Conference on Combating International Terrorism, 1999, African Union Convention on the Prevention and Combating of Terrorism, OAS Conventions); Court of Justice of the EU on *Kadi* and other cases (optional: compare with Swiss Federal Court on *Nada*)

Topic Area IX: Germany and Terrorism

RAF and West Germany: counterterrorism legislation in the 1970s, religious terrorism in the 2000s, BVerfG decision on the *Luftsicherheitsgesetz*

Topic Area X: The UN and Terrorism

Munich 1972 and Palestinian terrorism; SWAPO and Namibia, 1972 *ad hoc* committee on terrorism; 1994 Declaration on measures to eliminate international terrorism, draft comprehensive convention on international terrorism, reforming the international counterterrorism regime: a UN Sanctions Tribunal & Terrorism and the International Criminal Court

Concluding Discussion & Wrapping-up

What are the current developments in terrorism? Lone wolf terrorism?  
What are the prospects for a comprehensive convention against terrorism?

Preliminary Bibliography

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Bianchi, Andrea. “Enforcing International Law Norms against Terrorism: Achievements and Prospects”, in Andrea Bianchi (Ed.), *Enforcing International Law Norms against Terrorism*, Oxford and Portland: Hart Publishing, 2004, pp. 491-534.

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Bruha, Thomas. “Neuer Internationaler Terrorismus: Völkerrecht im Wandel?“ In *Terrorismus – Rechtsfragen der äußeren und inneren Sicherheit*, herausgegeben von Hans-Joachim Koch, Baden-Baden 2002, 51 ff.

Burleigh, Michael. *Blood and Rage. A Cultural History of Terrorism.* London: Harper Press, 2008.

Cassese, Antonio. „Terrorism is Also Disrupting Some Crucial Legal Categories of International Law.“ *European Journal of International Law* 12 (2001), 993 ff.

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———. "Manifestations of Terror through the Ages." In *The History of Terrorism. From Antiquity to Al Qaeda*, edited by Gérard Chaliand and Arnaud Blin, 79-94. Berkeley etc: University of California Press, 2007.

Cortright, David & George A. Lopez (Eds.). *Uniting Against Terror: Cooperative Nonmilitary Responses to the Global Terrorist Threat*, Cambridge, Mass., 2007.

Czarnetzky, John. “Terrorism and International Law : Past, Present, and Future.“ In

Terrorism's Unanswered Questions, edited by Adam Lowther & Beverly Lindsay, Westport, Conn., 2009.

Delbrück, Jost. „The Fight Against Global Terrorism: Self-Defense or Collective Security as International Police Action? Some Comments on the International Legal Implications of the 'War Against Terrorism'." German Yearbook of International Law (2001), 9 ff.

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Hanhimäki, Jussi M., and Bernhard Blumenau, eds. *An International History of Terrorism: Western and Non-Western Experiences*. Oxon: Routledge, 2013.

Hubac-Occhipinti, Olivier. "Anarchist Terrorism of the 19th Century." In *The History of Terrorism. From Antiquity to Al Qaeda*, edited by Gérard Chaliand and Arnaud Blin, 113-31. Berkeley etc: University of California Press, 2007.

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