

After Beslan: Changes in Russia's Counterterrorism Policy

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MARIYA Y. OMELICHEVA, OCT 15 2012

In the early 2000s, Russia witnessed a series of catastrophic terrorist incidents connected to the protracted insurgency campaign in Chechnya and the broader North Caucasus region. Beginning with the siege of the crowded Dubrovka Theater in Moscow on 23 October 2002 by armed Chechen insurgents that resulted in 129 casualties during the rescue attempt by the Russian security forces, a series of suicide bombings in the Moscow subway killed almost 80 civilians in February and August of 2004. The same year, a group of mostly Chechen and Ingush militants carried out a successful raid on the Russian interior forces in Nazran, Ingushetia, killing 80 troops, and two Russian passenger planes were blown up almost simultaneously on 24 August 2004. The most shocking in a series of deadly attacks by secessionist and Islamist militants seeking to liberate the North Caucasus from the Russian presence was the capture of over 1,100 hostages in a school in Beslan, North Ossetia, on 1-3 September, 2004 by the Chechen and Ingush militants. Branded as Russia's 9/11, the terrorist attack resulted in more than 300 deaths, including 186 children who perished in the rescue operation provoked by powerful explosions at the school and the following gunfire.[1]

The Beslan siege and rescue operation exposed significant deficiencies in terrorism prevention in Russia. It showed the ineffectiveness of incident command that resulted in heavy losses of Russia's special forces. It also shed light on the failures in intelligence management and errors in the dissemination of public information. The crisis had an immediate impact on Moscow's counterterrorism policy but also had considerable broader political implications. It became a trigger for ambitious administrative and federal reforms and shaped essential features of Russia's foreign and domestic policies for years to come. In the aftermath of the attack, the government of President Putin embarrassed by its inability to prevent and respond to terrorist threat pledged to strengthen the state authority, overhaul the system of the Russian security and law-enforcement services, and develop procedures for coordinating the activities of the counterterrorism agencies. The rest of this article focuses on the changes to counterterrorism legislation, institutional framework, and strategies set off by Beslan.[2] Most of these changes were codified into a new Federal Law No. 35-EZ of 6 March 2006 "On Counteraction to Terrorism", which replaced the outdated 1998 version.

The 2006 law distinguishes terrorism, i.e., the practice of influencing decision-making by state and local agencies or international organizations by means of frightening the population or other forms of unlawful violent action, from terrorist activity (i.e., various forms of assistance, preparation, and instigation of terrorism), and terrorist acts (explosion, arson, hostage taking, and other actions). For the first time in the Russian counterterrorism practice, the law defines terrorism not as separate acts and methods of committing violence for political and material interests but rather a multi-layered social phenomenon, where intimidation is not a goal but a method for accomplishing terrorist political objectives.

At the time of the crisis in Beslan, responsibility for combating terrorism was vested in two different governmental agencies. Russia's Federal Security Service (FSB) was responsible for preventing, uncovering, and defeating political terrorism, while the Ministry of Internal Affairs (MVD) was tasked with fighting terrorist crimes with mercenary objectives. Since 2003, the MVD was placed in charge of the counterterrorist operation in the North Caucasus. A special inter-departmental center was established in the North Caucasus to address the problem of coordination and

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intelligence sharing between the FSB and MVD. However, the center lacked the authority and means for performing its information sharing and coordination functions and, therefore, was unable to resolve the issue of inter-agency cooperation.[3] This lack of coordination between the FSB and MVD was evident in Beslan where the MVD was ordered to transfer command to the FSB, but the latter failed to seek a briefing from the MVD commander and ignored the expertise of local police, thus missing an opportunity to acquire the valuable intelligence information.

An important lesson that the Russian government learned from the deficiencies in the incident command was that all units and resources engaged in a counterterrorism operation should be placed under a single command.[4] The new counterterrorism law places complete responsibility for the terrorist incidence management on the counterterrorism operation headquarters. The police, army units, firefighters, and other human and technical resources are transferred from the jurisdiction of their respective ministries under the full authority of the operation headquarters. In addition, in February 2005, President Putin decreed the creation of the National Counterterrorism Committee (NAK), tasked with the coordination of counterterrorism policies and operations among 17 federal agencies. The regional counterterrorism committees led by the regional administration chiefs perform the NAK's functions in the regions. The operational headquarters charged with the direction of counterterrorist operations were placed within the federal and regional counterterrorism committees. This multi-level structure of the federal and regional counterterrorism committees with the operation headquarters within each of them replaced the Federal Antiterrorist Commission created in 1998, which lacked a permanent secretariat, viable mechanisms for monitoring and enforcing its decisions, and effective tools for coordinating the day-to-day counterterrorism activities of the federal bodies.

Following Beslan and the terrorist incidents that preceded it, all of which highlighted the need for regulating the methods of counteraction and selection of weaponry by the responding forces, the Russian government expanded and specified the parameters of a counterterrorism operation. It legalized the utilization of military and operational-combat measures in counterterrorism operations and authorized the chief of a counterterrorist operation to order the creation of a combined group of forces that can include military forces for participation in counterterrorism. Besides direct participation in counterterrorist operations, the Russian military can be used for preventing terrorist attacks involving hijacking and suppressing acts of terrorism in the Russian inner waters and territorial sea. Military force can also be used for targeting terrorists and their bases abroad, and for suppressing international terrorist activity outside of the Russian territory.

One of the weakest points of the counterterrorist operation in Beslan was the inability of the Russian law-enforcement agencies and troops to establish and enforce an effective security perimeter around the school. This allowed thousands of local civilians, some of which were armed with light weapons, to break through the police cordon. The new counterterrorism legislation, which legalizes constraints and limitations on the exercise of certain individual rights and liberties in the context of the counterterrorism operation, contains a long but exhaustive list of all permissible temporary restrictions on individuals' freedom to facilitate the effective management and response to the terrorist incident.

Another novelty of the counterterrorism legislation is the principle of making no political concessions to terrorists. The 1998 "On Combating Terrorism" allowed minimal concessions, whereas the current law contains a more categorical formulation.[5] The act, nevertheless, allows for the possibility of negotiations for the sole purpose of saving the lives of people. Those talks can only be conducted by the appointed negotiators and authorized by the chief of the counterterrorist operation. In other words, the law allows for some tactical concessions, but places a ban on giving in to terrorists' political demands. At Beslan, the Russian government that was informed by the failure of negotiations with terrorists, who sized the Budennovsk city hospital in June 1995 and who were allowed to return to Chechnya leaving behind 147 dead hostages, dismissed the idea of a negotiated settlement with terrorists in Beslan and focused, instead, on a military solution.

Although, Beslan highlighted the weaknesses in Russia's terrorism prevention, deterrence, and intelligence gathering, the reforms were tenuous in this area of counterterrorism. The new 2006 law, for example, was envisioned as a comprehensive piece of legislation encompassing a wide range of preventive measures and policies aimed at protecting people and infrastructure against terrorist attacks. Regrettably, the legislation is silent about preventive or prophylactic measures of counteraction to terrorism. Russia's counterterrorism policy retained its reactive and "catch-

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up" characteristics with most of the measures adopted in response to terrorist incidents. Operationally, Russian security forces failed to deter terrorist attacks and incursions in the broader North Caucasus region or to make potential targets outside of this tumultuous area unattractive to terrorists by increasing their protection.

Neither have the changes to counterterrorism policy resolved the quagmire between the FSB and MVD. With the end of the counterterrorism operation in August 2006, the Russian President decreed the establishment of operational headquarters in each of the regional republics headed by the MVD officials for fighting the remnants of rebel units. In September 2008, the Russian president further strengthened the counterterrorism role of the MVD by replacing the Ministry's department for combating organized crime and terrorism with the new units tasked with the fight against extremism. Traditionally, however, it has been the FSB that has performed the counter-extremist and counter-terrorist functions.

The broad definition of terrorist activity provided by the 2006 law, which includes, among other things "informational or other types of assistance" to terrorism, as well as the "propaganda of terrorist ideas, dissemination of materials or information, which urge terrorist activity, substantiate and justify the need for such activity" has had a chilling effect on the freedom of speech and open debate concerning terrorism. The broadcasting organizations are deterred from the circulation of unofficial information about terrorist attacks by the criminal liability for the "justification of terrorism," which was established by an amendment to Russia's Criminal Code in July 2007. Furthermore, the regime of counterterrorism operation, which does not require the declaration of a state of emergency and is not subject to either international accountability or parliamentary oversight grants enormous surveillance powers to the security forces and ultimate discretion to the chief of the counterterrorist operation in determining the area and duration of the operation. [6] In this way, the new law opens up possibilities for infringing on the basic rights of people.

The lack of a comprehensive program of prevention and the use of excessive force as a primary means of combating terrorism have undermined Russia's efforts to limit the growth of terrorism in Russia's regions. The government needs a long-term counterterrorism strategy that will include socio-economic approaches and an effective system of prevention and protection from terrorist attacks along with the punitive and consequence management dimensions. The Russian legislators should address the corrosive effects of the counterterrorism legislation on the rule of law, civil society, and the media, and strengthen the safeguards against human rights violations in the counterterrorism legislation. The latter should also define the mechanisms of public accountability and legal responsibility for the abuse of authority, as well as ascribe liability for negligence and inaction in implementing the counterterrorism legislation.

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[1] Forster, Peter. 2006. "Beslan: Counter-Terrorism Incident Command: Lessons Learned," *Homeland Security Affairs* 2(3). <http://www.hsaj.org/?article=2.3.3>

[2] For a discussion of the impact of Beslan on Russia's domestic politics and international relations see Baev, Pavel K. 2004. "Instrumentalizing Counterterrorism for Regime Consolidation in Putin's Russia," *Studies in Conflict and Terrorism*, 27(4): 337-352; Lynch, Dov. 2005. "'The Enemy is at the Gate': Russia after Beslan." *International Affairs* 81(1): 141-161.

[3] Gorbunov, Y.S. 2008. *Терроризм и Правовое Регулирование Противодействия Ему* [Terrorism and Normative Framework for Its Counteraction]. Moscow: Molodaya Gvardiya, pp. 236-237.

[4] Forster, 2006; Plater-Zyberk, H. 2004. "Beslan – Lessons Learned?" Conflict Studies Research Center, Russian

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[5] Marluhina, Y.O., and A.A. Rozhdestvina. 2007. *Комментарий к Федеральному Закону от 26 февраля 2006 года №35-ФЗ «О Противодействии Терроризму»* [Commentary to Federal Law No. 35-FZ of 26 February 2006 "On Counteraction to Terrorism"]. GARANT.

[6] Levinson, L. 2007. Governance as a Counter-Terrorist Operation Notes on the Russian Legislation against Terrorism. Submission to the Eminent Jurists Panel in connection with public hearings on terrorism, counter-terrorism and human rights in Russia. Moscow. Available at: <http://ejp.icj.org/IMG/Levinson.pdf>

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