Предисловие
• to promote new religious websites supporting reasonable and non-violent approaches to solving problems;
• to spread well-targeted disinformation.

The last recommendation may be dubious, since it goes against moral norms.

As it was clearly demonstrated by I.N. Panarin, information war waged by international terrorism and negative aspects in covering terrorism by the mass media are closely connected. He proposes three models for countering terrorism in its information and psychological warfare:\footnote{I.N. Panarin. Information War and Terrorism. Report at the Conference ‘Information Weapons in Terrorist Acts and Local Conflicts’. Ufa, Oct. 28, 2008.}

The first model deals with the political and economic aspects of countering terrorism in its information war.

The second model deals with providing information support for antiterrorist operations. It requires from the mass media the following:
• the authorities should control information channels through cooperation with the mass media;
• coverage of terrorist acts in the mass media should be limited to protect the public from their negative psychological effects;
• the mass media must not provide terrorists with any information about antiterrorist operations that may be useful for them.

The third model deals with countering terrorism in information and ideology. It includes the following recommendations:
• the number of acts of violence, shown on television, should be minimised; reports on terrorism, showing it in a positive light, must not be allowed;
• the mass media must not give terrorists opportunities to express their opinions;
• double standards in the mass media in covering terrorist acts must not be allowed.

Information terrorism and cyberterrorism today are a global problem. To solve it all members of the international community must cooperate closely and coordinate their efforts in this field.

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\textbf{On Systemic Nature of the Modern International Criminal Justice}

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Complex political and social situations in various countries, serious concerns of the international community regarding significant violations of the generally accepted norms and principles of international law are conducive to forming a growing number of international courts for enforcing international criminal law. These bodies exercise international criminal justice.

At present several institutional models are known for establishing, forming, legally regulating, organising and operating international criminal courts\footnote{A.G. Volevodz, V.A. Volevodz. The Present-Day System of International Criminal Justice: Collection of Materials. – M.: Yuritinform, 2009.}.

The following courts that have been established as auxiliary bodies of the UN Security Council are examples of the first model:

– International Criminal Tribunal for the former Yugoslavia (ICTY) established for dealing with war crimes that took place during the conflicts in the Balkans in the 1990’s;
– International Criminal Tribunal for Rwanda (ICTR) established for the prosecution of persons responsible for genocide and other serious violations of international humanitarian law committed on the territory of Rwanda between 1 January 1994 and 31 December 1994.

Both Tribunals have been set up in accordance with chapter VII «Actions with Respect to Threat to the Peace, Breaches of Peace and Acts of Aggression» of the UN Charter and are \textit{ad hoc} judicial bodies.

The second group of the institutional models of international criminal courts includes so called mixed (hybrid) criminal courts (tribunals). They are called «mixed» or «hybrid» because of the following:
– their procedures and jurisdiction are a combination of the norms of international law (agreements with the UN, other international treaties and national law (criminal procedure law);
– the material legal basis of justice, administered by such courts, is «mixed» – the applied law includes the norms both of international and national criminal law;
– these judicial bodies have a mixed composition of judges, prosecutors, investigators and administrative personnel that includes persons representing both the state where the court is based and international (foreign) participants of the criminal judicial process;
– these courts have mixed (hybrid) national and international jurisdiction, but are not a part of the judicial system of the state for which they were established – they are so-called «external» courts.

At present there are two types of mixed (hybrid) courts in international criminal justice:

(1) special courts established in accordance with international treaties between states and the UN;
(2) courts established by UN temporary administrations on the territories of states where peace-keeping operations are being conducted.

The first category of the mixed (hybrid) courts includes:
– Special Court for Sierra Leone (SCSL) set up under an agreement between the UN and the Government of Sierra Leone in accordance with resolution 1315(2000) of the UN Security Council of 1 August 2000;
– Special Tribunal for Lebanon (STL). The agreement between the UN and the Republic of Lebanon on the establishment of the STL was signed by the Government of Lebanon and the UN on January 23 and February 6, 2007 correspondingly in accordance with resolution 1664 (2006) of the UN Security Council of 29 March 2006.

The mixed (hybrid) courts of the second category are established by Peacekeeping Missions with the administrative mandate of the UN. In accordance with this mandate they have legislative, executive and judicial powers on the territories of the peacekeeping operations. They include:

– Mixed courts in Kosovo established as a part of the UN peacekeeping operation with international participation;
– Special Panels for Serious Crimes in East Timor established by the Temporary UN Administration in East Timor.

The courts of the third model of international criminal justice include national courts that in accordance with special decisions hear cases of international crimes with the participation of international judges and other participants of the criminal process.

Their legal basis is the law of the relevant state, in accordance with which specialised court panels are formed in national courts («a court inside court») with limited jurisdiction (concerning international crimes) and with the participation of international and national judges and prosecutors. As opposed to the international ad hoc and mixed (hybrid) courts, such national courts may be defined as «internationalised».

The first such court was the War Crimes Division of the Bosnia and Herzegovina. It has five Court Chambers, and each one acts as a court of the first instance and hears cases of the crime of genocide, crimes against humanity and war crimes; each Court Chamber has three judges: one national judge and two international ones.

The second such national body, hearing cases of international crimes with the participation of international judges and other participants of the criminal process, is the Extraordinary Chambers at the courts of Cambodia for criminal prosecution for crimes committed during the Khmer Rouge period. They have jurisdiction to prosecute the Khmer Rouge leaders and those responsible for crimes and serious violations of the Cambodian criminal law and the international treaties, signed by Cambodia, committed during the period from April 17, 1975 until January 6, 1979.

These «internationalised» courts significantly differ from other bodies of international criminal law, since they are national courts and not «external» courts in relation to the court system of the state.

However, they undoubtedly have an international nature, first of all, because their main purpose is to administer justice with respect to persons guilty of committing international crimes.
The forth and the most perfect model among the institutional models of criminal courts, existing at present, is the International Criminal Court.

Although there are quite significant differences in their legal regulation, the activities of all above-mentioned international criminal courts have a common material legal basis — international law defines crimes in their jurisdiction as international crimes.

As mentioned in a number of UN documents, an international criminal justice system is being established at present that along with the International Criminal Court includes national courts, international courts and hybrid courts with both national and international components.

However, it is worth mentioning that the orderly system of the norms of international law regulating international criminal justice is not yet complete. But in spite of existing differences and contentious issues, the member states and the United Nations continue to work in this direction, as this problem is too important for peaceful coexistence to be ignored.

Among Russian experts in international law there are different opinions on the existence of the system of international criminal justice. Many experts believe that no such system in reality exists, because the above-mentioned bodies of international justice, in their opinion, have no connections with each other and lack a strict hierarchic structure that is generally present in other judicial systems at the national level.

The author of this work shares the aforementioned opinion of the UN and believes that to understand that it is a correct one it is necessary to examine the legal basis of the international criminal courts from the point of view of the general theory of functional and social systems. The features of the modern international criminal justice, revealed during this examination, will make it possible to come to a grounded conclusion about its systemic nature.

I. According to the general theory of functional systems, «a set of selectively included components may be called a system only if interactions and mutual relations between these components are coordinated for achieving a specific useful result... The result is an integral and key component of the system. It is an instrument that creates an orderly interaction between all other components of the system».

The coordinated interaction and positive end results of the international criminal courts, in our opinion, are determined by the specific objectives set for them by the international community.

Resolution 827 (1993) of the UN Security Council on the establishment of the ICTY (adopted on 25 May 1993) specifies the following objectives for its activities:

— to put an end to such crimes [violations of international humanitarian law etc.] and to take effective measures for bringing to justice persons responsible for them;
— to prosecute persons responsible for serious violations of international humanitarian law;
— to contribute to the restoration and maintenance of peace;
— to ensure that such violations are halted and effectively redressed.

According to Resolution 955 (1994) of the UN Security Council (adopted on 8 November 1994), the establishment of the ICTR had the following objectives:

— to put an end to the crimes of genocide and other systematic, large-scale and blatant violations of international humanitarian law;
— to take effective measures to bring to justice those responsible for such crimes;
— to contribute to the process of national reconciliation and to the restoration and maintenance of peace;
— to contribute to ensuring that such violations are halted and effectively redressed.

The Agreement between the UN and the Government of Sierra Leone on the Establishment of the SCSL affirms as its purpose bringing to justice persons responsible for committing serious violations of international humanitarian law and crimes under the law of Sierra Leone.

1 UN Documents A/60/177, 1 August 2005; A/62/314, 31 August 2007.

The preamble and article 1 of the Rome Statute of the ICC define its objectives as follows:
- the International Criminal Court is a permanent institution and has the power to exercise its jurisdiction over persons for the most serious crimes of international concern;
- the most serious crimes of concern to the international community as a whole must not go unpunished;
- their effective prosecution must be ensured by taking measures at the national level and by enhancing international cooperation;
- the Court must put an end to impunity for the perpetrators of these crimes and thus to contribute to the prevention of such crimes.

Therefore, international criminal justice has the following general objectives:
1. to bring to justice and punish persons responsible for the above-mentioned crimes;
2. to protect the international community as a whole, each of its members and all individuals from such crimes;
3. to prevent such crimes, restoring and maintaining peace and security.

Undoubtedly, such objectives must be achieved by the international community as a whole and by its individual members. But they are specific for the international criminal courts, since such bodies are established, organised and aimed at specifically and only for achieving these objectives. They determine the nature of the activities of the international criminal courts, whereas for other participants of international cooperation the achievement of these objectives is not the most important task.

Focusing on a specific purpose is an inherent feature of any social system as a whole and each of elements. This is the principle of the hierarchy of purpose. A social system may have a number of purposes, but they do not contradict each other, are coordinated between themselves and have subordination with respect to each other. In our case the achievement of the purposes of the individual elements — separate international criminal courts — is a condition for achieving the main aim of the system — the effective administration of international criminal justice.

II. Another attributable feature of any social system is its fundamental openness for exchanging matter, energy and information with the environment. A closed social system cannot exist for a long time. The social system depends on the conditions of the environment and it must adapt to them.

The developing system of international criminal justice is an open system because its bodies are established in accordance with the will of the international community and the United Nations. All bodies of international criminal justice have been set up with an indispensable participation of the UN in some form:
- international criminal ad hoc tribunals for Yugoslavia and Ruanda have been established by the UN Security Council;
- mixed (hybrid) SCSL and STL courts have been set up in accordance with the agreements of the corresponding states with the United Nations;
- mixed (hybrid) courts in Kosovo and East Timor have been established and operate on the basis of legal acts issued by the temporary UN administrations of the respective peacekeeping missions;
- corresponding national courts in Bosnia and Herzegovina and Cambodia have been established with the support and cooperation of the UN;
- International Criminal Court has been established under the auspices of the United Nations.

The openness of these international courts is manifested in their international composition. Even if some of them has been set up on the basis of national courts (as in Cambodia or Bosnia and Herzegovina), international (foreign) judges are required to take part in their proceedings. It is the international judges that play the main role in making decisions in specific criminal cases. International prosecutors and defence lawyers also take part in the proceedings along with the international judges.

To ensure the international (i.e. open) nature of the international criminal courts, English or French are used in their proceedings.

Because they have been established in accordance with the agreements with the UN or with the participation of UN in other forms, these
courts are independent of any national legal system with respect to their administrative or financial activities.

The open nature of interaction of these international criminal courts with the international community is also manifested by their funding with the indispensable participation of the UN:

– through contributions of the states that are parties to the respective agreements under the auspices of the UN (as in the case of the ICC);
– from the UN budget (ICTY and ICTR);
– through voluntary contributions of the international community (SCSL) collected by the UN Secretary General;
– on a mixed basis when funds are provided both by the respective national state and the international community with its contributions collected by the UN Secretary General (STL, Extraordinary Chambers at the Courts of Cambodia);
– by the respective national state with the support and participation of the UN (East Timor, Bosnia and Herzegovina).

III. The principle of compatibility is a necessary and sufficient condition for elements to create a stable system. From all types of compatibility / incompatibility the following are the most important ones for the organisation of a social system:

1) Professional compatibility expressing the degree of professional competence of the elements for their joint activities. In our case it is ensured by special procedures for appointing international judges, prosecutors and defence lawyers;

2) Social and cultural compatibility expresses the degree of similarity of behavioural and spiritual patterns, people’s values, needs and interests. For the international criminal courts the basis of the social and cultural compatibility is international law, mainly the norms of international humanitarian and criminal law.

IV. The principle of the growing differentiation of the functions (functional specialisation) of international criminal justice is expressed in a necessary separation of specific functions and their assignment at one hand to individual officials and on the other hand – to separate elements of the international criminal justice system. The fact that in all international criminal courts without any exception the only person who is empowered to start an investigation is the Prosecutor or the Deputy Prosecutor (in the absence of the Prosecutor and at his/her request) is an example of the assignment of functions to individual officials. Investigations by the international courts (tribunals) may not be initiated by crime victims or their representatives, any non-governmental organisations or state agencies, or by any other officials of such courts (tribunals).

The differentiation of functions between the individual elements of the international criminal justice system is done in accordance with their material (ratione materiae), personal (ratione personae), territorial (ratione loci) and temporal (ratione temporis) jurisdiction.

Their material jurisdiction includes the most serious crimes causing concern of the international community, such as the crime of genocide, crimes against humanity and war crimes. In some case their jurisdiction also includes some crimes under the national law of individual states.

The territorial jurisdiction of the international criminal courts is limited either by the territory of a party state (the ICC) or by the territories of the states where crimes have been committed as specified in their statutory documents (the territories of the former Yugoslavia, Rwanda, Cambodia, East Timor, Bosnia and Herzegovina, Kosovo). Since the international criminal courts have universal personal jurisdiction, they may bring to justice any individual person for committing crimes under their material jurisdiction.

The only exception with respect to the above-mentioned principles of material, territorial and personal jurisdiction is the Special Tribunal for Lebanon (STL). It is explained by the fact that the STL has been set up for investigating and bringing to justice the perpetrators of one particular crime – the terrorist act committed on Feb. 14, 2005 when the former prime minister of Lebanon Rafik Hariri was assassinated and a number of other people were killed or injured.

This exception is not so much an evidence of a special place of this court in the international criminal justice system but of a possible trend in the development of the individual components of this system and the

system itself. The definition of the material jurisdiction of the STL is the first example when terrorism, recognised as a crime in international law, is included under the jurisdiction of an international court. This issue was already raised earlier, both quite a long time ago (in the Convention on the Establishment of the International Criminal Court opened for signing by the League of Nations on November 30, 1937) and more recently (during the development of the Rome Statute of the ICC). Unfortunately, these attempts turned out to be unsuccessful.

V. According to the principle of progressive integration (concentration), specialised one-order elements with the same function in a social system tend to combine into one cell, and several one-order systems tend to combine into one metasystem. Like differentiation, the nature of this integration process is progressive. The implementation of this principle at the level of the international criminal justice bodies is reflected in the establishment of the ICC – the first permanent international court with criminal jurisdiction.

VI. The principle of social expansion reflects the fact that each social system strives to widen its sphere of influence. As a rule, expansion is a sign of vitality of the social system and is aimed at increasing its capacity. The system expands because a larger system is harder to destroy or to change compared with a smaller one, larger systems are more resistant to external pressure, and in extreme conditions they are more likely to survive. If we have a look at the history of the development of the system of international criminal justice, we can clearly see its social expansion: all the above-mentioned international criminal justice bodies were established and started their activities in less than the last 20 years, and a significant number of them were established after the establishment of the most important element of the international justice system — the ICC.

V. Another feature of any social system is its compliance with the principle of structural hierarchy, reflecting the fact that the elements and subsystems of a social system are necessarily subordinated in accordance with the «tree» of aims and functions. A classical social system has a pyramid structure with at least two structural levels. Structure-forming links in the social system are of two kinds: horizontal and vertical (subordination) links. The first ones are links between elements and subsystems of the same structural level. The second links (subordination or control links) are links between different structural levels (vertical links).

The lack of structural vertical hierarchy is the main argument of those who do not agree that the international criminal courts constitute one system. Really, they are not under a strict hierarchic subordination with respect to each other, like lower and higher courts at the national level.

But this circumstance may be easily explained. Historically provisions of international law are developed by states at various forums and at different levels (bilateral, multilateral, regional and global). As opposed to uniform national legal system, a certain degree of fragmentation is unavoidable during the development of international law. This explains that often the norms of international law on similar subjects of legal regulation are developed simultaneously at different sources of such regulation. Moreover, these norms are used by the parties of international relations and international law in various fields, from the general aspects of contract law to specific cases of international law, for example, dealing with human rights, fighting international crime etc. For this reason relations regulated by international law are not regulated in the same way as at the national level, where most states have legislative, executive and judicial branches of the government.

However, if one examines functional interconnections between the international criminal courts without bias, there may be found some elements of both horizontal and vertical hierarchy. In particular, it is the presence of horizontal links that may explain the fact that all international criminal courts have been established and administer justice on the basis of the uniform principles of international law that were first formulated in the Charter of the Nuremberg Tribunal. Justice, administered by these courts, is based on the international treaties defining international crimes and their punishability together with the uniform principles of international criminal law as recognized by the international community. Accordingly, their jurisdiction includes the gravest crimes concerning the international community, such as the crime of
genocide, crimes against humanity and war crimes. Some elements of horizontal hierarchy may also be seen in the facts the Prosecutor of the ICTY at the same time is the Prosecutor of ICTR, and a number of international criminal courts use the procedures of the ICTY.

Only the presence of some fragments of vertical hierarchy may explain the fact that if the ICTY refers a case in accordance with the approved regulations to the Prosecutor of Bosnia and Herzegovina, he must start criminal persecution in accordance with the facts of the referred case, and this criminal case must be heard by the Department for War Crimes of the Bosnia and Herzegovina Court1.

At last, the examination of the subordination links of the international criminal justice system demonstrates that its highest element is not just some other court, but the United Nations, under the auspices or with the participation of which all without any exception international criminal courts have been established. For this reason the Presidents of the ICTY, ICTR, SCSL and ICC submit annual reports to the UN Security Council and General Assembly.

Only some aspects of the topic defined by the title of this work are described in the above paragraphs. In conclusion it is worth noting that the growth or decline of any social system (and the international criminal justice system in particular) depends upon, firstly, what possibilities or threats there are actually or potentially in the environment of this social system, secondly, upon the ability of its leaders to analyse the relevant factors of the environment and to take them into account when determining the aims, strategy and tactics of the operation and development of this system. At each particular moment some factors may have a dominant significance for the existence of the system, other factors may be not so important. From the point of view of the general theory of functional and social systems the legal regulation and activities of the international criminal courts with international criminal jurisdiction may be considered as a unified system of international criminal justice.

At present this system is in the process of development. It came a long and complex way from the publication of the first doctrinal studies to the working international courts administering justice. Until recently their activities dealt mainly with the past — they were set up for investigating and punishing crimes committed earlier. After the establishment of the International Criminal Court international criminal justice has got a preventive aspect, since this court will deal with future crimes.

Understanding this, the international community and the UN pay special attention to eliminating factors that potentially may negatively influence the further development of the international criminal justice system. In particular, by promoting education and training in international criminal justice in accordance with the principle of the rule of law in the context of the standards and norms of the UN in preventing crime and administering criminal justice and by interpreting the term «international criminal justice» in a wider sense as including the material and procedural norms of international criminal law and the necessary mechanisms for enforcing these norms in the form of international criminal courts1.

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