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STRATEGIC PLANNING PECULIARITY OF ANTI-TERRORIST ACTIVITIES

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Summary

This scientific article is devoted to the contemporary theoretical justification of terrorism and optimization mechanisms search of counter-terrorism strategies, including through their orientation on the identification and neutralization of social factors that provoke terrorist activities. One should note the actuality of application of the strategic planning as scientifically grounded technology of optimization of efficiency of the state and international systems of terrorism counteraction.

Key words: terrorism, counterterrorism, strategic planning.

Аннотация

Эта научная статья посвящена теоретическому обоснованию особенностей современного терроризма и поиску механизмов оптимизации антитеррористических стратегий, в том числе и путем их ориентации на выявление и нейтрализацию социальных факторов, провоцирующих террористическую деятельность. Особо подчеркивается актуальность применения стратегического планирования как научно обоснованной технологии оптимизации эффективности государственных и международных систем противодействия терроризму.

Ключевые слова: терроризм, антитеррор, стратегическое планирование.

Statement of the problem. Terror and terrorism – these social processes have become a distinctive feature of the present time. The search of general approaches to address these forms of violence has been ongoing for over 30 years. Irrespective of this effort we still have no clear definition of terrorism, or which actions should be treated as acts of terror or what is the nature of terror, or what are the root causes of these phenomena. Under definition of Ozhegov – «terror – is a physical violence which may go as far as physical extermination towards political opponents». This words Derivatives of are «to terrorize» – which means to threaten with terror, violence, or intimidate with something keeping a person in the state of constant fear, «a terrorist» – or a participant or partisan of the acts of individual terror [1]. This definition is a complete enough description of process, the nature of which is not so much a direct physical or other violence as a social reaction to it.

The concept of «terror» was introduced by Aristotel to define a special type of horror which gripped the audience watching a drama in the Greek theater. That was a horror of non-existence represented in the form of pain, chaos, destruction [2]. The idea to use real horror in mass conscience

in order to capture and retain power is world-old. Even Egyptian pharaohs resorted to such punitive measure as artificial famine in order to keep people in awe. When those unwilling to pay excessive taxes and perform homage were simply disconnected from water supply, famine set in together with horror of whole generations. Terror – under all times has been and remains to be the most effective instrument in the hands of the state to control its own people. The concept of transforming fear into the tool of government was set forth in the works of Marat and tested in practice by Jacobeans. Since then, terror has become a compulsory component of any political power. At the turn of the millennia the planet witnessed a triumphant march of democracy – the mission of which is to put an end to violent capture and retention of power. If physical extermination, as a form of terror, has remained a feature characteristic to the lower coils of evolution spiral, the modern stage of society evolution has produced new, more exquisite forms of intimidation – for example, threat of financial, energy crisis or environmental disaster. Purpose of this paper is to study the features of countering terrorism, taking into account the peculiarities of its origin and nature.



State of the study. In the works of contemporary scholars terrorism is studied various sections: social, philosophical, legal, political, economic, military, etc. The main attention was given to the description of terrorism as a typological category. Cumulative knowledge base of domestic terrorism researchers may be arbitrarily distributed in two parts that complement each other. The first is based on the analysis of information on the driving force of modern terrorism, describing technology and consequences of terrorist acts, including work focusing on social, criminological and criminal legal historiographical study of terrorism as a kind of criminal activity. The second part combines the analysis of terrorism as an element of the social system, and scientific-methodological and practical advice on the organization of opposition.

Statement of the material. Terror – is a total of violent actions on the part of the governing social system – regime versus civil society – controlled system aiming at a more effective coercion. Actually the question is about a variety of social – psychological method of social governance, namely a method of making a guiding influence or a method of realizing (achieving) the targets of social governance [3].

If terror – is a form of pressure exerted by the state on the civil society with the purpose of retaining political regime, the acts of terror are a form of protest against the existing social order. And in this case, the main objective of terrorists is both extermination of specific individuals and intimidation of society in order to resolve specific political conflicts, which cannot be resolved by traditional methods. Terrorist activities are based on a social conflict to resolve which the ruling authority must be forced to make this or that political decision. In a general case, terrorist activity – is an extreme form of response on the part of civil society or certain elements of it to specific methods resorted to by the ruling system. Prime cause of terrorist activity is, primarily, the imperfection of social governance system. Terrorist movement in the Russian Empire (part of which was Ukraine) had deep historical roots and its progress reached its climax in

the period of 1894–1917. It is exactly in that period that the theory of terrorist struggle was shaped, its basic principles are reflected in the program documents of practically all radically oriented parties. This example confirms that the acts of terror are especially popular in the societies, which among other remedies require reforms and peaceful changes, that is, social system of government requires correction, and the ruling circles either are not willing or are incapable to make it. «...There is no doubt, that the first shots made by terrorists at the beginning of the XX century were a sign of a poor general health of the Russian political life. And irrespective of the fact that through the whole first decade the government saw revolutionary terrorism as its main problem, autocracy still failed to address the question of what had caused this phenomenon and what it meant. This fatal error resulted in the revolution which wiped off the traditional order which had been fighting with the symptoms of the most dangerous disease and not with the disease itself» [5].

It looks that at the turn of the millennia terrorism from a global phenomenon is transforming into a negative feature of the civilized society [9; 2]. The ratio of terrorism is declining and, naturally, the role of international groups, which square accounts with political regimes is growing. Example – the acts of terror in the United States, which happened on the 11th of September were condemned by the majority of countries which earlier were classified as terror oriented states. Referring to «Patterns of Global Terrorism» report, which has been prepared by the US State Department on a regular basis for 20 years already, one may say that terrorism as a social phenomenon is progressing. It is also observed that the center of international terror activities is moving gradually across the Near East and South Asia in the direction of the Caucasus. In view of the geopolitical location of Ukraine, and main transport corridors in its territory which connect these zones with Eastern Europe, it is advisable to view the above mentioned as a particularly meaningful terror genic factor. Unfortunately, we have to admit the fact that the wave of terrorism has actually covered, in the literal sense, at first Russia,

then America and there are negative forecasts that in the nearest future it will envelop the whole world. Events that are happening in the world make us consider whether Ukraine is prepared to survive in the process of international terrorism «showdowns» on its territory, if such will happen? As we see it from the chronicle of tragic events – America happened to be unprepared to this. In our opinion, the basic reason of such gloomy consequences is the weakness of the general counter-terrorist strategy, primarily where it concerns prevention (forecasting) of terrorist activities intensification [11]. Counter-terrorist strategy is determined by the state policy and national security concept. Imperfection of the general anti-terrorist strategy, primarily at the level where terrorogenicity of social systems is shaped, as well as, prevention (forecasting) of terrorist activities intensification, often leads to tragedy.

The word strategy originates from Greek – strategos, «art of the general». Military roots of this term cause no doubt, since it was a retrospective strategy, which enabled Olexander Macedonsky to conquer the world. Strategy (in its counter – terrorism aspect) is a detailed and comprehensive plan designed to ensure the implementation of the state mission and that of its institutions aimed at protecting its nationals from terrorism via establishment and implementation of the system of the nation – wide actions. Several major theses, which belong to counter- terrorism strategy, must be clearly understandable and, what is even more important, accepted by the top leadership of the state. In the first place, the strategy is shaped and developed, largely, by the latter, but its implementation involves all levels of government. Strategic plan must be justified with research and actual data. In order to be able to effectively oppose various methods of terrorism, which undergo continuous improvement, the state and, primarily, its authorized institutions must be engaged in massive information collection and analysis about all factors, which enhance terrorist activities.

The term «terrorism» appeared not long ago. Terror or act of terrorism (terrorism activity), in dialectical solidarity with anti-terrorist activity



represent specific demonstration (forms) of the organized violence. The concept of «terrorism» is much wider. A modern semantic image of this concept is determined by the specific features of the social process, which is the violence (physical, psychological, information, and so on) directed to the correction of the social system and respective system of views and doctrines. Sociological paradigm of the concept of «terrorism» is a system of views (doctrines) about possibility or impossibility of the political systems transformation by means of psychological influence determined by public resonance caused by an action (intimidation, crime) or threat of its commission with the intention of intimidating or coercing civil societies. An obligatory feature which distinguishes terrorism from the criminal offence is an attitude toward the policy, power, government, in other words toward the mechanisms of the civil society social management. And it makes no difference whether terrorists act on the side of existing government or against it. Terror and terrorism irrespective of the important key differences, in our view, have common roots, as they are the closing stage of the social conflict caused by the imperfection of the system of the social management of the society. A process of transformation of a social conflict in to violence is determined by the combination of character of the civil society and conflicting parties. Antiterrorism is a process of organized counteraction to terrorist activities. At this point it mainly suggests the revelation and elimination of terrorist elements. As experience has shown, it is not effective to combat terrorism in the form of physical destruction of the terrorists. It stops the crime – which is the main task – but it does not eliminate the problem. In a general sense, combating terrorism can be considered as a function of the social management system. As of today it comes to the prevention and stopping of terrorist activities. In our view, the antiterrorism measures include, first of all, self-correction of algorithm of social management on the basis of intensive monitoring of socium (the civil society), simulation of possibilities of social strain with the aim to forecast

possible stages of social conflicts generated by them, strategic planning and management. Strategic planning is one of management functions, which represents a selection procedure of the objectives of the state system of antiterrorism measures and ways of its achievement. Strategic planning provides basis for all management decisions, functions of the organization, motivation and control are aimed at the developing strategic plans.

The process of strategic planning is a tool helping to make managerial decisions. Its task is to provide innovations and changes in the organization of combating terrorism at the sufficient level. There are four basic types of managerial activities within the framework of the strategic planning process: allocation of resources, adaptation to the external environment, internal coordination, and organizational strategic foresight. Strategies of counteraction (combating) to terrorism must be clear and accepted by the top management, which is even more important.

Development of effective strategy to a considerable extent depends on the acquaintance with the real situation (terrorism activity) on territory of the state and abroad, social monitoring of the problem, attitude of different social strata, associations, political parties and groups toward the problem of terrorism, above all to the character of the attitude toward the initiators of terrorism, policy real possibilities of the state as to the warning and stopping the terrorist activities. And the process of strategic planning is just one of the management functions which represents a process of selection of goals of the state system of combating terrorism and ways of their achievement, ensures basis of all managerial decisions, functions of organization, motivation and control are focused on the development of strategic plans [12]. The process of the strategic planning is a tool helping to make managerial decisions. Its task is to provide innovations and changes in the organization of combating terrorism at the sufficient level.

The first stage in the organization of counteraction is the forecasting the terrorgenesity of the social systems and development of efficient managerial

strategies directed to its reduction. Terrorgenesity as a property of the social system can be forecasted with some assumptions, simulated at the certain abstraction level. The control of the social environment condition is complicated and time-consuming process. Characteristics of the state of social environment are formed as a result of the long-term multistage process. In my opinion, it is possible to carry out control over characteristics of the social environment, such as marginality, stratification, fanaticism, nihilism and social victimity, on which qualitative property depends terroristic inclination of the social system. For this purpose it is necessary to implement a number of social and managerial programs, ideally – under the aegis of the state. On the basis of the forecast of the terrorgenesity of the social system there must be synthesized control signal – a theoretical model of the corrective influence, aggregate of measures which must be taken and which by the forecast of analysts will reduce terrorist inclination of certain social factors and the system on the whole. This model of the corrective influence after decision-making by leaders can be integrated into the algorithm of social control. Synthesis of the control signal is a function of analytical law enforcement units and subdivisions of bodies. Formation of the corrective influence is the final stage of the process of control of the social environment condition. Simulation of the specific plan of actions directed to the optimal change of the algorithm of social control is the purpose of formation of the corrective influence. The Certain list of social and legal regulations, mainly in the form of legal acts and departmental instructions intended for the formation of political priorities, moral norms, and educational and cultural programs is a form of corrective influence.

The second stage – is the planning of organizational measures directed to the combating terrorism. There are the following types of managerial activities within the framework of the process of strategic planning of organizational terrorism combating measures.

Allocation of resources. This process implies allocation of the limited financial and technological possibilities



between the subjects of the state system of combating terrorism. The existing counter-terrorism system in Ukraine allows organization of cooperation of subdivisions of various departmental identity (Security Service, Ministry of Internal Affairs, Ministry of Defense, and so forth). The Target-oriented allocation of the budgetary resources for organization of combating terrorism is not applicable. Each security ministry supplies special terrorism combating units within the limits of allocated budgetary funds, sometimes on the odd-money principle. Absence of the target oriented funding and efficient allocation of resources, first of all organizational (skilled personnel and technological experience), close the door on optimization of the strategy of combating terrorism. Adaptation to the external environment embraces all strategic actions, which determine cooperation with the external environment. In this case the social society is an external environment, and is not divided by the state borders with regard to the terrorism combating strategy. It is very important to abstract from only military technologies of solving social conflicts – to produce violence against violence. These attempts are unsuccessful. If we consider terrorism as a specific form of conducting war in the post-industrial society, the methods of its conduct must be specific. A civilized possibility of combating terrorism requires revelation of its cause and effect relationships, necessary and satisfactory conditions, identification of the terrorism-provoking factors and possibilities of their neutralization. According to the historical experience, it is impossible to eliminate the conflicts generated by the imperfection of the social management system in the society (authorities) by the severity of the control influence. The only acceptable way of the problem solution is optimal correction of the algorithm of social control, which represents a correct civilized form of solution social conflicts which are at the stage of application of terrorist methods. Adaptation of the strategy of combating terrorism envisages the possibilities of managerial activity sufficient for the effective influence on the social policy of the state (algorithm of social control at the level of the system of defense

and security, political housecleaning, combating the organized crime, and so on).

Internal coordination. It includes coordination of strategic activity for the identification of strong points and blind sides of the of counter-terrorism system with the aim to achieve effective integration of internal subsystems. This entails creation of the single information space, joint mechanisms and methods of protection and prevention from special units training. The Security Service plays a key role in the organization of counteractions to terroristic manifestations. The Counterterrorism Center (CTC) was set up in its structure, which is charged with the function of coordination of the cooperation. But the last events prove that any agency fails to cope singly with such large-scale operations and using their special units without the proper coordination is only for the benefit of terrorists. Providing efficient internal relations is an integral part of the managerial activity. Now CTC is acting as a coordinator. In our opinion, CTC requires more weighty status for the optimal realization of preventive measures on terrorism combating, which are mainly based on the application of the concept of monitoring, forecasting terrorgeneity, revelation of terrorism factors, and their neutralization. This can be done only by the legislative awarding to the CTC the status of independent body of the state power or the structure with the rights of the Coordination Committee under the President. It will enable organization of the mechanism of social correction with the aim to eliminate or to the utmost minimize the initial causes, which lead to the social cataclysms and terrorism as one of forms of the organized violence.

Organization and strategic forecasting. The aim of this activity is realization of organizational strategies, which envisage systematic development of intellectual potential by developing a counter-terrorism system, which can self-perfect according to the previous experience of strategic decisions. Ability to use the experience allows the system to correct in a proper way its strategic direction and develop professional skills in the sphere of strategic management. A role of the top executive consists in the simple initiation of the process of

the strategic planning; it is also related to the realization, unification and assessment of this process. At the same time, taking into consideration specific features of the terrorism as consequences of the shortcomings and mistakes in the social management system, a scope of responsibility should cover those systems and elements of the social management systems and individuals, which provoked the terrorism by their actions or inaction.

Special attention should be paid to the optimization of the legal standards, improvement of the regulatory and legal mechanisms of the social correction aimed at the optimal counteracting to the terrorism as social process. Information on the society climate should be in the proper place in the strategic planning process.

Conclusions. Correctness and timeliness of made decisions depend on the reliability and efficiency of this information. Now in the process of organization of terrorism counteraction the information support technologies, based on realization of the Law on Operational Search Activity (in other words, upon the fact of organization or performance of the act of terrorism are mainly used). Introduction technologies of terrorism monitoring technologies, in other words, transfer of the focus on the disclosure and neutralization of social factors, which contribute to the terroristic manifestations will allow to considerably reduce terrorgeneity of the society.

Projecting all the above-said on realities in our country and in the world, one should note the actuality of application of the strategic planning as scientifically grounded technology of optimization of efficiency of the state and international systems of terrorism counteraction. At the same time, realization of the strategic planning, and as a result, an optimal counter-terrorism strategy of become possible if terrorism is considered as a threat to the national security with approval of certain organizational conclusions of the concept plan.

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ПОДХОД ПРАВОВЫХ ТРАНСПЛАНТАТОВ В СОВРЕМЕННОМ СРАВНИТЕЛЬНОМ ПРАВОВЕДЕНИИ: СТРУКТУРНЫЙ АСПЕКТ ОСМЫСЛЕНИЯ

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Summary

The legal transplants thesis as an idea of «artificial» universalisation of law is grounded in the article. This thesis became the epicenter about universal or particular (cultural – special for every legal system) nature and content of law. Personification of this discussion is an opposition A. Watson's «transplantation thesis» and P. Legrand's «the impossibility transplantation thesis». Structure of legal transplants approach is exposed. There are seven elements of such structure. Have makes accent that legal transplants approach covered historic, ontological and epistemological spheres of contemporary comparative law.

Key words: «legal transplants» approach, artificial universalisation of law, legal isolation thesis, legal borrowing, comparative law.

Аннотация

В статье обосновывается тезис правовой трансплантации в качестве идеи «искусственной» универсализации права. Этот тезис стал эпицентром дискуссии относительно универсальной либо партикулярной (культурно-особенной для каждой правовой системы) природы и содержания права. Персонификацией этой дискуссии является оппозиция «тезиса трансплантации» А. Ватсона и «тезиса невозможности трансплантации» П. Леграна. Раскрывается структура подхода «правовых трансплантатов» посредством формализации семи его содержательных элементов. Акцентируется внимание на то, что подход «правовых трансплантатов» охватывает собой историческую, онтологическую и эпистемологическую сферы современного сравнительного правоведения.

Ключевые слова: подход «правовых трансплантатов», искусственная универсализация права, тезис изоляции права, правовые заимствования, сравнительное правоведение.

Постановка проблемы. Определяющее для европейского мировосприятия утверждение универсализации права в качестве разрывания его сущности стало причиной возникновения сравнительного правоведения. Последнее и должно было стать формой осуществления и существования такой универсальности, иными словами, наличествует внутренняя и необходимая связь между попытками универсализации права и классическим сравнительным правоведением XX ст.

Вместе с тем, начало нового тысячелетия ознаменовалось широко-масштабной дискуссией относительно определения универсальности либо сингулярности в качестве направляющего вектора развития и методологической доминанты всего гума-

нитарного познания. Сравнительное правоведение играет в пределах этого дискурса определяющую роль. Именно оно должно дать ответ на вопрос о возможности универсализации права и его масштабах. Проблематике универсализации права посвящены труды А. Ватсона, Х. Кётца, Ю. Тихомирова, К. Цвайгерта, Р. Циммерманна (в аспекте положительного обоснования), а также Ч. Варги, В. Курран, П. Леграна, А. Тихомирова (в аспекте критического осмысления), а также множества других ученых. Центром притяжения указанной дискуссии стал подход «правовых трансплантатов», выявление и осмысление структуры которого, и является целью данной статьи.

Изложение основного материала. В сравнительном правоведении идея