



§1.3 THE EXPERIENCE OF «FAILED STATES» OR HOW NOT TO LOSE (Puhach V.H., University of Educational Management)



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Introduction. It is inherent in the human community to strive to create an order that allows the realization of important life functions. The most important institution through which proper order is achieved is the state. With its system of power and administration and its monopoly on the use of force and coercion, the state is able to provide and maintain the order necessary to meet the vital needs and interests of the individual and society as a whole. In this regard, issues related to the phenomenon of "failed state" are of particular scientific relevance and practical significance. This is determined, first of all, by the fact that such states, according to many modern experts, pose a significant threat to the security of both their citizens and the world community. Like a pathological agent, the failed state causes various entropic processes, thereby creating a social space close to the natural state. The involutory processes characteristic of failed states and the threats associated with them have brought the creation of explanatory constructs of the "failed state" phenomenon with an emphasis on the development of a set of measures to restore the functionality and good governance of such states to the forefront of contemporary scientific inquiry.

Presentation of the basic material. The beginning of the ideological and theoretical reflection of the phenomenon of the "failed state" dates back to the 1990s. It is associated with the article "Saving failed states" by Gerald B. Helman and Steven R. Ratner, published in the Winter 1992-1993 issue of Foreign Policy. Identifying failed states, Gerald B. Helman and Steven R. Ratner identify economic decline, violence, anarchy, political instability, and widespread human rights violations as characteristic features of such state formations. The authors' unequivocally affirmative





position on assistance to such states is justified not only by the intolerable living conditions of citizens of such states but also by the fact "that their problems tend to spread". [1]. Many researchers have continued to actively address the topic of failed states against the backdrop of increasing terrorist threats. In particular, between 1998 and 2002 the Harvard University project "Failed States" was implemented, the results of which were expressed in the works: "State Failure and State Weakness in a Time of Terror" and "When States Fail: causes and consequences. The editor of these works, Professor Robert I. Rotberg, in defining failed states, collapsed states, weak states, emphasizes that "a failed state is a polity that is no longer able or willing to perform the fundamental tasks of a nation-state in the modern world". [2, P. 6]. A few years earlier, in 1994, the State Failure Task Force (SFTF) was created in the United States to study the multiple aspects of failing states. The Task Force's goal was to identify the factors or combinations of factors that distinguish states that failed from those, which averted crises over the last 40 years [3, P.49]. As a result «state failure was defined to include four types of events, each of which indicates severe political instability», namely:: revolutionary wars, ethnic wars, adverse regime changes, genocides and politicides [4, P.49]. Thus, the proposed logic of SFTF's reasoning regarding state failure allows us to state with some certainty that «states that sponsor international terrorism or allow it to be organized from within their borders are all failed states» [5, P. 623]. Meanwhile, some researchers have questioned «such conventional wisdom». In particular, L. P. Puccetti denies the existence of a clear link between terrorism and the failed state. As a result, he concludes that «the assertion that all failed and weak states are sanctuaries for terrorism needs to be reconsidered. Not all the failed and weak countries host terrorist cells, despite the fact that they offer potential advantages and favorable conditions to those organizations hiding in these types of nations» [5, P. 3].





Obviously, there is no definitively established universally accepted point of view on this issue, or at least it remains quite debatable. At the same time, the disadvantage of such academic discussions, in our opinion, is that they are determined mainly by the search for the relationship between international (transnational) terrorism and failed state, leaving the aspects related to the manifestations and practices of state terrorism on the periphery of scientific reflection. Because these aspects have not been adequately reflected in the research literature, the "ruthless state" the constitutional feature of which is state terrorism, remains outside the scope of consideration of the concept of the failed state. The Russian aggression against Ukraine, in the course of which Russia convincingly demonstrated the most dangerous relapses of its past related to terrorist activities of the state, has played a stimulating role in the articulation of this theoretical direction. This raises the question of whether a state whose ontological basis is state terrorism can qualify as a failed state?

The difficulty in using state terrorism as an attribute of the failed state is that, on the one hand, state terrorism is not defined in international law and, accordingly, has not been codified in international law as an illegal act, it nevertheless involves acts which violate international law [6, P. 15]. On the other hand, based on the general recognition of a monopoly on the legitimate use of violence by the state, many scholars are not inclined to incorporate state terrorism into the general academic discourse on terrorism. This situation has been articulated very clearly and succinctly by Professor R. J. Blakeley: «states are permitted to use violence, so we should not refer to their use of violence as terrorism» [7, P. 2]. Nevertheless, the extremely destructive nature of the state, the fundamental principle of the organization of power and governance of which is terror, predetermines the need for the theoretical understanding of the phenomenon of "failed state" through the prism of state terrorism. From this perspective,





attempts to conceptualize the concept of "state terrorism" deserve special attention.

The theoretical construction of the phenomenon of "state terrorism" is based on theoretical and methodological developments covering a range of issues related to terrorism. Active discussions around this concept have not led to a single agreed definition of terrorism. At the same time, in substantiating their theoretical positions, some researchers of state terrorism refer to the fact that the main characteristics of terrorism are «first, threatened or perpetrated violence directed at some victim; second, the violent actor intends that violence to induce terror in some witness who is generally distinct from the victim, in other words the victim is instrumental; and third, the violent actor intends or expects that the terrorised witness to the violence will alter their behaviour [7, P.4]. В частности, R. J. Blakeley высказывает мнение о том, что «state terrorism involves the following four key elements: (a) there must be a deliberate act of violence against individuals that the state has a duty to protect, or a threat of such an act if a climate of fear has already been established through preceding acts of state violence; (b) the act must be perpetrated by actors on behalf of or in conjunction with the state, including paramilitaries and private security agents; (c) the act or threat of violence is intended to induce extreme fear in some target observers who identify with that victim; and (d) the target audience is forced to consider changing their behaviour in some way» [6, P.15]. An important addition to this substantive characterization of state terrorism, in our opinion, is that Professor R. J. Blakeley defines as a manifestation of state terrorism «acts which violate international law, with the aim of terrorizing others through those illegal acts» [6, P.15]. An eloquent illustration of this is Russia's violations of international law. In particular, here is just one example of a series of such violations. As we know, the Russian Federation threatened to use nuclear weapons more than





once during its full-scale military invasion of Ukraine. Such a threat is an act in violation of international law. This is evidenced by Article 2, paragraph 4 of the Charter of the United Nations, which prohibits not only the use of force but also the threat. In this regard, the International Court of Justice emphasizes that «the notions of "threat" and "use" of force under Article 2, paragraph 4, of the Charter stand together in the sense that if the use of force itself in a given case is illegal - for whatever reason - the threat to use such force will likewise be illegal» [8, P.24]. The purpose of such threats is to intimidate Ukraine's Western partners, who provide it with assistance in fighting for its freedom and independence. For example, Deputy Chairman of the Russian Security Council D. Medvedev заявил, что the continued supply of weapons by NATO countries to Ukraine increases the possibility of transition to a full-fledged nuclear war. This was stated by Medvedev in Telegram. In addition, D. Medvedev in social networks also explicitly raised the nuclear threat, if Sweden and Finland join NATO. He expressed the hope that Finland and Sweden would see sense. If not, he said, they would have to live with nuclear weapons and hypersonic missiles close to home [9]. Threats to use nuclear weapons as an act to violate the principles of the world order are manifestations of state terrorism, the inherent attributes of which should be considered permissiveness and destructive aggression, through which fear and terror are induced on a wide audience in order to change the behavior demanded by the actor of state terrorism.

State terrorism as a mechanism of non-legal coercion is capable of causing a crisis with a transition to catastrophic changes in the normative and regulatory system, associated with social chaos, all kinds of threats, and disasters. Therefore, a state practicing terror against its own citizens, the citizens of another country or the world community as a whole must be thought of as a failed state. Certainly, the Polish researcher A. Szpak is right,





emphasizing "that the label "failed State" should not be utilized too often, as one must always remember the consequences of calling a State a failed one" [10]. However, in the case of states whose modus operandi is fear and intimidation, the use of the concept "failed state" allows us to clearly draw a demarcation line between civilization and uncivilization. As is quite rightly pointed out R. Jackson «state terrorism is far more lethal and destructive than non-state terrorism» [11, P. 2].

Although some scholars have suggested that there is no way to help failed states, the academic community offers different algorithms for dealing with failed states. Predominantly, they «to focus on restoring "failed" states to the status of «successful» states, through a range of short- and long-term «nation building» efforts». Meanwhile, some scholars, such as American law professor R. Brooks does not share this view, stressing that «in some cases may do as much harm as good», explaining that «in large part, this is because most «failed» states were never «successful» states». As a result, R. Brooks expresses the opinion that «the populations of many failed states might benefit more from living indefinitely in a «nonstate» society than in a dysfunctional state, artificially sustained by international efforts» [12, P.1159-1160].

Without going into a detailed examination of the current responses to state failure, let us focus on the question of how to behave within the framework of the evil called state terrorism. In this regard, the opinion that draws our attention is J. Shea on «the increasing wave of state terrorism in which authoritarian governments believe they can now repress their populations and violate international law, norms and standards with complete impunity» [13]. Capturing contemporary manifestations of state terrorism, e.g, the war that Bashar al-Assad has waged against his fellow Syrians, Russian incursion into the Donbas in Ukraine, Chinese repression of its Uighur minority, The modus operandi of





J. Shea's reasoning is based on the fact that «it is time for the Western democracies to end the culture of impunity» [13]. Meanwhile, the presence of general tolerance and perhaps even a certain indifference to manifestations of state terrorism, as evidenced at least by the lack of a legal framework for state terrorism, significantly complicates the answer to the question posed above. And the longer this question remains unanswered, the more entrenched "the culture of impunity" becomes, the greater the uncertainty in both individual and collective security. From this perspective, J. Shea's suggestion about «develop a strategy to help democratic actors within repressive states to organise and express their views» [13]. While recognizing the difficulty of implementing such a strategy in "ruthless states," J. Shea rightly notes that «abandoning them to their fate is not a strategy either» [13].

In the context of a full-scale Russian invasion of Ukraine, the question of the effectiveness of sanctions has become particularly acute. On this point, J. Shea expresses the view that this «the default option for dealing with violations of international law and repressive behavior...may not be the best ones for bringing about change». Of course, the topic of the effectiveness of sanctions to curb states that practice terror is a sensitive one. However, there is also no doubt that the enormous profits that Russia has received for decades from close economic cooperation with Western democracies have strengthened the Russian repressive state machine, instilling confidence in Russia in its impunity for violations of international law. Therefore, sanctions should be seen as a cost-effective way to respond to state terrorism. This is especially important when a state allows itself to resort to the practice of intimidation and terror against the citizens of another state or the world community as a whole.

Revealing the connection between state terrorism and the failed state at the theoretical level should help create an





appropriate international legal framework, the lack of which condones state terrorist actors, leaving their atrocities unpunished. Nevertheless, the author of the article agrees with the opinion of J. Shea that «the goal has to be to end mass repression, rather than just punish it». In addition, unconditional compliance with the principle of unavoidability of punishment for violations of generally accepted norms also reveals its importance in the space of permissible and prohibited.

Conclusions. The problem of state terrorism adds another, important aspect of meaning to the existing content of the concept of "failed state. This approach contributes to the modernization of the discourse on failed states, having at the same time a stimulating effect on the study of state terrorism, which, in the apt expression of R. Jackson, in academic texts on terrorism "is noticeable mainly for its absence.

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