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DYNAMICS OF GOVERNMENTAL ORGANIZATION OF THE SOCIETY: EVOLUTIONARY STATE-LEGAL FORMS AND MODERN DEVELOPMENT TRENDS

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Abstract: The paper presents a historical and legal analysis of the socio-cultural evolution and political dynamics of the public-power organization of society. The key ideological programs of the state-legal transformation of modern societies are considered in detail, and the key laws of the modern development of political and legal forms are determined. The domestic and international legal factors affecting the political dynamics of the state institution are considered separately. The authors present a critical analysis of modern concepts and doctrines modeling the development of state and legal forms of organization of modern societies on the basis of which they argue that today it is necessary to develop legal constructions and political forms that could adequately describe the modern functioning of state institutions and the strategy of its development in a globalizing world. In addition, the authors prove the need to clarify the criteria and characteristics classifying the “sovereign qualities” of state power, specifying their reality (or nominal character), and factuality (virtuality).

Keywords: Power, globalization, state, doctrines, political organization of society, law, legal system, evolution.

INTRODUCTION

Obviously, the state that emerged in antiquity went its own, unprecedented historical path. In general, this was the story of the rise and expansion of the State (Jouvenel, 2011). The reasons that lay in its foundation sometimes changed drastically, and sometimes only modified. Some public functions died out, others arose. Forms and methods of public power activity, legal regimes, and mechanisms of power-management changed (Lyubashits et. al., 2013). What at some stages was supported by violence, at other stages turned into a normal publicly-authoritative practice and a stable “socio-political habit” (Mamychev et. al., 2017).

New areas fell under the jurisdiction of the state, and within it, some social forces came to replace others. But what is especially important is that it is with

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the emergence of the state that politics itself and political relations arise. After all, the core of politics, as a special sphere of human activity, is precisely the conquest and use of the state, political power, the definition of the forms and tasks of their activity (Mamychev, 2017).

For many centuries and millennia of existence, qualitative transformations and the perfection of the state, not only thousands of generations have been replaced, but entire social and economic formations have come and gone with their leading socio-political forces, protagonist classes and their very unequal life problems. Tsars and kings, emperors and pharaohs, dictators and democrats, Caesars and consuls, sages and rascals, each in its own way - depending on the existing political system and the established political regime - but always persistently and invariably sought to capture, retain and strengthen state power as the most important, decisive lever of their domination (Baranov P.P., Mamychev A.Y., Ovchinnikov A.I., 2016).

METHODS AND MATERIALS

This century has confirmed some previous theories of the state and has brought additional evidence of a number of laws of its development. If we recall the political doctrines of the middle and the end of the last century about the destinies of statehood, they can be reduced to several groups.

The first one is liberal-reformatory, defending the evolutionary sustainable development of the state and the gradual implementation of reforms in it. Among its representatives were K. Kautsky, G. Pobedonostsev and B. Chicherin, L. Dugi, and others.

The second is a revolutionary one, represented by the Marxist-Leninist theory of the demolition of the bourgeois state and the creation of a new socialist state, dying out in the communist perspective.

The third one is critically anarchist, striving, after the scrapping of the institutions of bourgeois statehood, towards a stateless society.

The fourth is the concept of national statehood, freed from external state oppression. The underestimation of “national self-recognition” by Marxists and other ideologists, who believed the inevitable dissolution of national-state basics in the common “factory boiler” and international integration processes, was proved in the first quarter of the 20th century, and especially at the end of the century. Gravitation to federations as the initial way of expressing the rights of nations to self-determination was replaced, to a certain extent, by a tendency towards complete state independence, complemented by the desire to become a substitute for international legal institutions. One can say without exaggeration: “state community” and “state diversity” became two dominants of world development.

THE MAIN PART

It is necessary to characterize the most typical laws of states' development in the XX century. In our opinion, it is permissible to single out six general laws governing the development of states in the twentieth century. They came out clearly. They are: (1) a change in the correlation of the state and civil society, (2) the functional role of the state, (3) the priority of the right over the state, (4) the aggravation of the national nature of the state with the expansion of its social base, (5) the strengthening of the international legal dependencies of states, (6) the self-development of the state as a system with its own elements. With all the conventionality, these regularities act at a very large scale. Of course, their emergence occurs through the prism of specific trends for groups or individual states.

The dynamics of the correlation of the state and society in many respects is crucial for understanding the nature, structure, and content of the latter's activities. Between the polar concepts of a totalitarian state, universally embracing all spheres of public life, and democratic, liberal or self-governing, there is a wide range of their relations. Perhaps the core of the relationship is defined by the formula "gentleman" and "servant": who plays which part, with the allowed exchange.

Relatively fixed state spheres, well-developed democratic institutions of society (parties, media, local government, etc.), real social control are the features of Spain after the overthrow of the Franco regime, and, similarly, features of the Scandinavian countries. Russia and a number of other CIS states are slowly moving in this direction. At the same time, the experience of France of XIX-XX centuries also shows the opposite tendencies, when liberalism was replaced by Bonapartism and Gaullism. In the post-war period, socially-oriented market economy and representative democracy in Germany came to replace the fascist regime. In general, there emerged something like the social obligations of the state towards the society, which it takes upon itself with a change in the type of power, with changes in policy after elections, with the adoption of constitutions. The implementation of electoral programs, orders, solving social security problems, paying salaries (for Russia), ensuring law and order serve as evidence of the fulfillment of such obligations, and if they are violated, the population reacts painfully.

Naturally, public power undergoes serious changes. Its organization and functioning on the basis of the principle of separation of powers have become widespread in many countries of the world, except perhaps in Muslim countries with their strong "religious right" and weak or absent parliament. The fixed nature of spheres of activity and relations of branches of power does not restrain their confrontation, for example, in Russia and Belarus, does not always stimulate such a necessary interaction. The confrontation between the royal and parliamentary authorities, characteristic for the XVIII-XIX centuries is replaced by a confrontation between presidents and parliaments. But what is the place of presidential power?

Will the growth of the presidential republics continue? The place allotted on the “tree of power” to direct democracy is also unclear. At the same time, the increasingly popular principle of subsidiarity allows us to talk about a uniform distribution of functions at all levels - from national to local. And this theoretical innovation needs to be mastered and used to the fullest.

In recent decades, such a side of relations between the state and society as “shadow power” has been revealed even more clearly. There is a clear transition from a group of favorites close to the king or a narrow circle of ministers, which was characteristic for the past centuries to freemasonry, to a broad opposition, to parallel social structures. The legal “shadow power” in the form of the actions of parties, clubs, lobbying, contacts of bankers and industrialists with the authorities is entirely permitted. But “illegal power” in the form of a mafia, channels of corruption, illegal armed formations, etc. tears the state up and weakens it. In Italy, and in the US, and in Russia, there are many illustrations of these trends. Society “secretly” subordinates the state apparatus.

In the present century, the state has clearly revealed its role in many spheres of society. Predominantly class matters have been increasingly replaced by general social affairs, as well as by general affairs on the scale of the world community. In parliaments, in the regions, in the press, in business circles, there are endless debates about what and how the state should deal with. Some believe that the sphere of state influence has sharply narrowed. Others recognize the need for its modification and the transition to limited regulation in the economy. Still, others insist on maintaining the previous state levers, centralization. The spread of opinions is understandable, it is more difficult to explain wavering in state activity, its “tides” and “ebbs”.

First of all, it is necessary to thoroughly master the new role of the state in relation to society. If the former acts as a “servant” in relation to the second as to the “master”, then it is necessary to determine the range of his affairs. These are cases having an indisputable public character. These are cases of public significance, but these are also social issues related to the provision and protection of human rights. In other words, the state is called upon to perform necessary and useful functions for society. What are they? Ensuring political stability, regulating the economy and supporting entrepreneurship, promoting education, science, and culture, protecting nature, ensuring security, international cooperation.

It should be noted that the applied concept of state functions was most often “applied” to the spheres of the life activity of society - economic-organizational or economic function, cultural-educational or ideological function, etc. But it is more important to distinguish functions as the direction and content of state work, as the volume of state affairs proper in certain spheres. These are normative-regulating, legalization-registrar, protective, program-oriented, resource functions. Their volume and ratio are not the same, and they must vary flexibly (Chirkin, 1996).

Otherwise, the inevitably low level of public affairs management negatively affects the living standards of the population (such were the years of Germany's depression in the late 1920s; such are the difficulties of fiscal support and weak management of state property in present-day Russia). The "radius of functions" is also increasing: they are increasingly manifested not only inside but also outside the state, and the burden on the state to carry out general affairs is growing. The interdependence of internal and external functions becomes more solid and some of them are carried out by states jointly or in concert.

Another indisputable trend is related to the relationship between the state and its citizens. The old concept of "subjects" was replaced by the constitutional concepts of "citizens", "people", which in many states mean a state-consolidated social community. The notions of "citizen" and "person" have entered into legal and living circulation, as well as the normative concepts of "nation", "population", "inhabitants", "people", "territorial community". But there are still many sharp contradictions in the state practices (Lyubashits, Mamychev & Mordovtsev, 2015).

One of them is connected with the problem of political participation of citizens and their alienation from power. Observations show how the desire to attract citizens to governance and get public support strengthens state power and how the growing gap and alienation of people from power create weakness and a "fall" of the authorities. Far from all countries manage to balance these processes, although the manifestation of the state's natural connection with citizens is the most important democratic characteristic (Mordovtsev, 2004), and self-government remains an ideal. Another contradiction is connected with the interpretation of priorities for the "state-people", "state-nation", "state-citizens". Both in the past and nowadays states have appeared, then transformed and developed as national states, and the name of each state is historically given by the "motto nation".

The international legal acts of the United Nations, the Council of Europe and the CIS recognize and affirm the right of all peoples to self-determination and freedom to establish their political status (paragraph 2 of the Declaration on the Granting of Independence to Colonial Countries and Peoples). In the internal plan, it is freedom to choose the ways of development, in the external, it is the choice of types of relations with other peoples and states. Sovereignty remains the backbone of the people and the state. But there are historical circumstances that lead to a restriction of sovereignty. The deepening integration of states and their interdependence gave rise to a number of American political scientists (Cohen, etc.) as early as the 1970s to speak out about the obsolescence of the "state-nation" category and the possibility of a gradual transition to "states-territorial communities" (Danube, Scandinavian state etc.) (Lyubashits, 2004).

Moreover, the recognition of the priority of human and citizen's rights and freedoms as the main imperative of constitutional and international law gave rise to Boutros-Ghali, and other figures and the United Nations to repeatedly speak out

about international protection as grounds for limiting state sovereignty. Conflicts in Bosnia and Herzegovina, Abkhazia and Chechnya gave this concept a sharply political meaning. And the reconciliation formula has yet to be found.

The law of the development of states in the XX century is the recognition and maintenance of the rule of law; an elaboration of this problem in the legal literature allows us to only briefly touch upon some of its aspects (Nersesyants, 1983). The most important of them is the justification of their non-closed bilateral relationship since both the state and law are born and serve the society. But it is not easy, in particular, to reveal the measure of self-development of law and the measure of its production from the state.

Recognition of the rule of law became a characteristic feature of most constitutions of the second half of the century, but it, naturally, expresses only one facet of the relationship. The state is “bound” by law and must create conditions for the operation of legal norms and strictly enforce them. In fact, these postulates are often violated, in particular, because of the incorrect application by different entities of the principle “everything that is not forbidden is allowed”. Stereotypes of legal consciousness and behavior like “law-abiding” are typical for Great Britain, Germany, Scandinavian countries, and stereotypes of “fear of legal sanctions”, “legal nihilism”, “arbitrary interpretation of law”, “legal inaction” are more often found in Russia, while stereotypes of religious priority and other norms are inherent in the population of African states. Muslim countries still consider the real law to be either the Koran or the custom. And, undoubtedly, a lot of frontiers still need to be passed on the way of the formation of the rule of law (Cohen, 2006).

The obvious and increasingly growing dominant feature in the development of states is the international environment impact on them. The 20th century and especially its last decades have clearly revealed the following:

- the strengthening of interdependence of states in global problems solving;
- trade, transport, information and communication, culture and science, in the humanitarian field as a whole;
- thirdly, the increasing “involvement” of states in the orbit of the activities of intergovernmental associations such as the EU, the Council of Europe, the CIS and international organizations, the “intertwinement” of public institutions;
- the recognition of the priority of international law over domestic law.

The procedures for the transformation and direct application of international norms and methods for resolving legal conflicts are not the same in Spain, France, and Germany. For Russia, this problem is especially urgent. International law acquires a new role - in the context of comparative jurisprudence it acquires the meaning of normative orientation and at the same time a standard and a criterion for comparing national legal systems (Lyubashits et. al., 2016).

The beginning of the century gave rise to a confrontation between the capitalist world and the first socialist state. Since the middle of the century, the cold war between the two world systems has been exacerbated. With its end, there is a transition to a multipolar world and an equal cooperation of states, but there are relapses of “American leadership” and the pressure of the conflict situation in spite of universally recognized norms of international law. Here new mechanisms of state-legal influence are needed.

Finally, we can briefly make a theoretical and practical “sketch” of the modern dynamics of the state-legal organization of society. It should be noted at the present time that international political communication based on state unity, sovereignty and national integrity evolves towards adapting (constantly changing, dynamic, network-like) cosmopolitan interaction models, where state power is viewed as one of the global actors, participating in the political process on an equal basis with non-governmental civil institutions, transnational actors, military-political blocs.

Alongside, in the global order of the world, the sovereignty and legitimacy of the state become concepts amorphous and mobile enough, the content of which is specified through “additional characteristics”: the real and potential “strength” of the state (economic, political), military and political power, institutional legal stability and stability of public law institutions. At the same time, we believe that the “withdrawal” from the state the basic functional responsibilities will lead to dysfunction of its institutions and to the instability of the state legal process.

CONCLUSION

In our opinion, today it is extremely important to focus efforts on the development of legal structures and political forms that adequately describe the modern functioning of state institutions and the strategy of its development in a globalizing world, as well as the criteria and characteristics classifying the “sovereign qualities” of state power, clarifying their reality (or nominal character), factuality (or virtual character), etc. It is no accident that in modern political and legal studies the concept of “the might of state power” is increasingly used, which expresses the potential and real ability of the state to independently determine the goals and objectives of the development of the national state-legal space, to “dialogically” participate in international legal policy and on the equal basis to act as one of the “architects” of the international security system, the leading subject of the global political economy.

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