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The role of the democratic state in universalization of rights and freedoms of citizens

Vlasova Valentina Mikhailovna

Full Doctor of Philosophy, professor,
Bauman Moscow State Technical University,
P.O. Box 105005, 2-nd Baumanskaya st., No. 5, Moscow, Russia;
e-mail: a-editor@yandex.ru

Abstract

The article is dedicated to the analysis and refinement of the concepts of "democracy", "human rights" and "state" in the social, philosophical, historical and political aspects. The author notes that the implementation of all rights and freedoms in full measure is possible only if speaking about the real democratic state. The article highlights two very important functions of the state: mediation and the management function. The author examines democracy as a form of government (one of the types of political regime), which is characterized by the official recognition of: 1) the people as a source of power, 2) the principle of majority rule, and 3) political freedom and equal rights of citizens. The author concludes that Russia is now in transition towards democratic rule of law, where the issue of guarantees and the rights and liberties of the people will stand in the first place. As the author argues, the most appropriate method for any state in fact to prove the practical implementation of their policy documents, the constitutional norms lies in improvement of conditions to preserve and protect the rights of its citizens, in securing the guarantees of freedom, creativity, in full respect for the rule of law, the disclosure of potential new way of thinking in our own national house.

Keywords

Russia, constitutional state, democracy, state functions, population, human rights and liberties.

Introduction

Can we say today, in the age of globalization and at the same time the states international differentiation of potential capabilities, pace and dynamics of the universalization of rights and freedoms of man and citizen? No country today can boast of a full welfare in this area.

Terrorism, double standards, crimes against freedom, dignity, life of numerous social groups, countries and entire nations are constantly being found in the arsenal of political structures, policies, as well as political methods and technologies.

Progressive democratic approach to the problem of human rights and freedoms is based on the inseparable unity of socio-economic, political, cultural, human rights, equality of ethnic groups, religions and spiritual components. The most appropriate way for any state to prove their policy papers and constitutional norms in practical implementation is to improve the conditions to preserve and protect the rights of its citizens, securing guarantees of freedom, creativity, compliance with the law, realizing the potential of the new thinking, in their own national house. Positive changes will be a success only in the case, when

the main subject to be put into the center of all the transformations – a human being, its concerns, interests, rights and freedoms.

Human rights and freedoms

Considering the rights and freedoms it should be noted that the implementation of all rights and freedoms fully possible only in the presence of a democratic state. Speaking of a democratic state, it is important to emphasize that the term "democracy" is derived from the fusion of two words: "demos" – the people and "kratos" – power. And initially meant that the power of the state should be the people's, by votes and referendum. Empowering citizens such a right should be entrenched and guaranteed. As a consequence, it generates another equally important problem: the realization and protection of the rights and freedoms of citizens and people living in the territory of any state, including the Russian Federation. Given that the question of the rights and freedoms appeared on an equal basis with problems of democracy as a form of government, the age of this had existed more than one century and even millennium.

Theoretical and legislative basis for universalization of human rights

and fundamental freedoms constitutes universal standards, activities of various community organizations and different packages of international agreements and instruments adopted, signed and ratified by different countries. In particular, the Universal Declaration of Human Rights¹ includes items testifying the universalization of human values of kindness, solidarity, freedom of thought and conscience, equality before the law, the role and importance of the individual in the public system.

Analysis of the content of the Universal Declaration of Human Rights indicates its historical continuity with the 1789 French Declaration of the Rights of Man and of the Citizen. However, the Universal Declaration of Human Rights adopted in the new post-war reconstruction of the world made a number of innovative moments both conceptually and meaningfully.

The declaration stressed the universal nature of human rights and freedoms by prohibiting any exceptions in their provision and extending to any

person, regardless of status and area of residence. Thus, the peoples of the colonies and other dependent territories were first proclaimed subjects of fundamental rights and freedoms. In terms of content the Declaration expanded the notion of fundamental rights and freedoms, formalized socio-economic and cultural rights in the international level for the first time, showed their relationship with civil and political rights and the need for ensuring human dignity.

Development of new approaches to solving the problems of human rights and freedoms of citizens of different countries, religions, cultures is particularly relevant in a global, dynamic and controversial world today. General positive tone of disposition, approaches and ideas to solve the problems of human rights and freedoms does not exclude dialogueness, non-confrontation, search for unifying positions as necessary conditions for different ideologies, political and economic systems coexistence. The people themselves on the basis of freedom of choice should determine striving the highest criteria of moral principles, national cultural traditions, spiritual ideals for their countries.

The idea of democratizing the entire world order is becoming more social and political force and the basis for ac-

1 "The Universal Declaration of Human Rights (adopted at the third session of the UN General Assembly December 10, 1948)" ["Vseobshchaya deklaratsiya prav cheloveka (prinyataya na tret'ei sessii General'noi Assamblei OON 10 dekabrya 1948 g.)"], available at: <http://base.garant.ru/10135532/>

tual existence of the common criteria in the area of fundamental rights and freedoms, the development towards universalization of human rights and freedoms in the entire society².

State and population

Considering the problem of the nature of the state and state institution functions in terms of ensuring and protecting human rights in exchange for citizen requirements to strengthen, protect and safeguard the integrity, strength and independence of the state where he resides, we can note the following.

State – one of the most advanced, complex and controversial creations of human civilization. Most of the known history of the people is a picture that tells about the formation, collisions and deaths of state formations, about sophisticated and brutal struggle for power, in which people didn't chance arm neither others, nor themselves³.

From the first to the last days of life a person is more or less depen-

dent on the state, designed to protect the rights and safety, but instead requiring to comply with numerous, sometimes very onerous regulations. The conflict between human personality striving for freedom and severe restrictions imposed on it by the state and society, which arose in the ancient states, full of tragic elements, is not resolved up to the present time.

Over the course of history, people thought changed about the state, its role and functions, about the best form of political organization.

State in its modern forms has developed in the course of a long historical formation⁴. Precursors of state institutions were pre-state forms of social self-regulation, self-organizations of human communities. For a long time traditions, rules, customs, which were supported by the elders standing and the opinion of all members of the tribe, clan, patriarchal family, quite effectively have regulated relations between people, solidarized human communities making them able to work together and support each other.

The state emerged not immediately: gradually institutions of political leadership became isolated from society, which step by step transferred functions

2 Gaida, A.V., Kataev, V.V. (1991), *Authority and a man [Vlast' i chelovek]*, Ural'sk. un-t, Sverdlovsk, 158 p.

3 Reznik, Yu.M. (1993), *Civil society as a phenomenon of civilization [Grazhdanskoe obshchestvo kak fenomen tsivilizatsii]*, Soyuz, Moscow, 167 p.

4 Nersesyants, B.C. (2000), *The history of political and legal studies [Istoriya politicheskikh i pravovykh uchenii]*, NORMA, Moscow, 352 p.

formerly performed by the whole tribe or race. The most important reason that caused the complication of the system of socio-political leadership was the development of human economic activities. It gave birth to more advanced forms of cooperation and collaboration. Quickening clashes between numerically increased due to fertile lands, hunting areas, etc. caused the need to preserve and increase the wealth of the tribe by means of specially created armed units.

For the time being, the term "State" also depending on the context may have a different meaning. First, in the narrow sense the state is identified with representative and executive and administrative organs of political power, as well as the system of legal norms governing their operation. Second, the term is used to refer to political power relations, i.e. relations of domination and subordination between different groups of citizens, between the authorities (such as parliament and government), as well as between the authorities and civil society organizations. Third, in ordinary parlance the term "state" is often used as a synonym for "country", "homeland", "society".

This polysemy of the term "state" is not accidental. It follows from the nature of the state not only as a class, but as a universal organization designed to

ensure the integrity of the society. The polysemy is conditioned by the organization of the state itself, which structure organically twisted with basic components of society (territory, population, authority).

Influence of the state upon population is universal. Every person living in the territory of a particular state, including foreign nationals, obeys a single authority. However, this does not mean that the population of the state is sole in all respects. The nation as a community is not homogeneous in composition. In its framework cohabit multicultural estates, class, ethnic and other communities having the specific socio-economic and spiritual interests. But it is the people as a constituent element of the state acts as an integrating community in relation to its affiliated social groups.

Power is a master unit (sign) of the state. State attaches a binding effect to its imperious dictates for the entire population. These dictates are expressed in the form of legal rules (laws), adopted by the authorized state bodies. It is through the legislative bodies of the state that ruling political group brings its will to the dependent. Obligation of population to comply with legal norms provided by the executive and administrative activities of government agencies, courts and other

legal institutions, as well as special enforcement machinery. The latter consists of groups of people intentionally organized for this purpose and having corresponding necessities. The power of the ruling political group is realized by a set of special institutions. System of such institutions commonly referred to as public control and administration authorities in the political and legal science. The main elements of this structure are the institutions of legislative, executive and judicial branches of government, that in different countries have various appearance and name. An important place in the structure of executive bodies take the protection of public order and national security authorities, as well as armed forces. Through these bodies provided the sole priority of the state on the use of coercive measures and regulation of relations between the individual and the state.

An investigation of state functions is a detailed study of the question of its nature and social role. Functions reflect the main activities of the state to fulfill its mission. In the functions of the state manifests its essence. In general terms, the state has two main functions: mediation and control.

Mediatory function directly related to the nature of the state as an instrument of regulation of contradictions and

conflicts that arise in a society divided into social groups. Social conflicts can only be resolved with the help of a social force, towering over the private interests of different social groups. As such acts the state. Its mediatory role is that a ruling political group seeks a compromise formula between the conflicting parties. Offering and imposing such solutions that basically satisfy the conflicting parties, the government strives to prevent the danger of a direct clash between them.

The control function involves regulation of the developments in the country as a whole, more or less effective monitoring of the implementation of certain activities necessary for the conservation and development of society in whole. Any society has problems related to defense, economy, natural resources, food production, health, education, social welfare, justice, security and respect for the rights and freedoms of citizens. The task of the state is to influence on the social system as a whole and its individual elements in order to solve these problems or mitigate their penetration. Control function is no less important for the normal development of society than the regulation of social and class relations. Social stability and prestige of the ruling political groups depends on the extent of efficiency of this function.

After World War II human rights question from a purely internal began to turn into an international one. Constitutional law has gradually begun to fall under the influence of international standards. Nowadays, no matter what country lives a man, his rights are protected by the international community. Adopted a number of international instruments obliging the states, which signed them, to comply with them and encourage respect for human rights without discrimination.

The significant difference of international legal documents from other international agreements is that obligations imposed on the Member States of the Council of Europe, regulate relations not so much with other states, as aimed at protecting the rights and freedoms of citizens of the particular state. However, in many countries the development of constitutional law and most importantly its execution leaves much to be desired.

Democracy today

Democracy perhaps means the full freedom of the individual, freedom of its pursuit, freedom of opinion and systems competition⁵. If Plato in the es-

sence of democracy saw that each person gets the opportunity to live in accordance with his wishes, then this definition is perfectly suited to modern understanding of the democracy. For the time being to the idea of democracy possibly corresponds the full and free expression of human individuality, openness to all directions and manifestations of creativity, etc. Although democracy is represented as a control of the majority, but, as Roosevelt said aptly: "the best evidence of the love of freedom is the condition in which the minority is placed. Everyone should have the same opportunity with others to express their essence"⁶.

Currently there are more than 500 different definitions of democracy. But the most appropriate, in my opinion, will be the following: democracy – a form of government (type of political regime), which is characterized by an official recognition: 1) the people as a source of power; 2) the majority rule; 3) political freedom and equality of citizens.

Political scientists have identified three groups of rights that are associated with the growth of civic consciousness: civil (equality of all citizens before the

5 Alekseeva, T. (1996), "Democracy as an idea and process" ["Demokratiya kak

ideya i protsess"], *Voprosy filosofii*, No. 6, pp. 16-35.

6 Roosevelt, T. (2007), *African and European Adresses*, Echo Library, 108 p.

law, freedom of speech, religion, freedom to change place of residence), political (the right to elect and to be elected, freedom to vote, the right to create own organization), social (the human right to a minimum standard of well-being, the right to have assured living conditions and social security guarantees)⁷. Social rights are exercised by the state by means of social programs. Personal and group freedoms are protected by an independent, non-partisan judiciary.

The 1991 Declaration of the rights and freedoms of man and citizen adopted by the Supreme Soviet of the Russian Federation proceed on the basis that the state recognizes the primacy of human rights and freedoms, that the observance and protection of human rights and freedoms, honor and dignity of the individual is a primary duty of the government. The process of forming a legal state involves the creation of a system of political, legal and other safeguards that would ensure the reality of these constitutional provisions, the equality of all before the law, mutual responsibilities of the state and the individual.

7 Nersesyants, B. C. (1989), "Human rights in the history of political and legal thought", *Human Rights in the history of mankind in the modern world* ["Prava cheloveka v istorii politicheskoi i pravovoi mysli", *Prava cheloveka v istorii chelovechestva i v sovremennom mire*], Moscow, p. 25.

Conclusion

The Constitution of the Russian Federation stipulates that Russia is a democratic federal legal state with the republican form of government. The country is in transition now, this fact is noted by many professional politicians as well. Hopefully, there will come a time when the standard of living rises to such an extent that Russia could be rightly called a democratic state ruled by law, and where the issue of safeguards and enforcement of the rights and freedoms of the people will be the number one concern.

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Роль демократического государства в универсализации прав и свобод гражданина

Власова Валентина Михайловна

Доктор философских наук, профессор,
Московский государственный технический университет им. Н. Э. Баумана,

105005, Москва, 2-я Бауманская ул., 5;
e-mail: a-editor@yandex.ru

Аннотация

Статья посвящена анализу и уточнению понятий «демократия», «права человека», «государство» в социально-философском и историко-политическом аспектах. Автор приходит к выводу о том, что Россия находится сейчас на переходном этапе, на пути к демократическому правовому государству, где проблема гарантии и реализации прав и свобод людей будет стоять на первом месте.

Ключевые слова

Россия, правовое государство, демократия, функции государства, население, права и свободы человека.

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