

VIOLENCE AND IMPERIOUS INSTITUTIONS IN THE RUSSIAN POLITICAL AND LEGAL REALITY

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Abstract: The article presents the theoretical and methodological aspects of understanding the essence and specificity of the phenomenon “imperious violence” in the domestic political and legal field. The authors make arguments for the importance of researching various forms and types of violence in the context of the national legal and political life of the country. This type of work is meaningful and of importance to the search for the optimal ways of legitimizing State power from the viewpoint of the modern policy and law that, in its turn, can be attributed to the significant factor for the sustainability of any country.

Keywords: political violence, State power, legitimacy, the politico-legal organization of the society, socio-cultural factors, legal mentality, political regime, imperious practices.

INTRODUCTION

As a rule, violence, “the population is fearful” of regnant persons and their decisions, power elites’ system of values, their prime interests, authority, the level of political and legal information awareness, managerial experience, ways of influencing the population’s consciousness (manipulative practices), etc. consider the specificity of imperious institutions within the framework of a wide approach to the main things, which define the content of power, used in the modern cratology.

Having generalized the foresaid, one can maintain that understanding the nature of power includes a compulsive analysis of its following elements: not less than two sides of power (its subject and object); the ordinances of those who exercise authority, supported by possible sanctions (any sanctions including legal

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enforcement actions) for their non-fulfillment; the obedience features of that who receives orders to whom who gives them (as it is known, defined by the level of legitimizing imperious structures and institutions' activity); existence of the social convention establishing obligation of such relations (Shakhbanova et. al, 2016).

For exercising State power, first of all (at least), two elements are necessary to have. They are as follows: public division of labour between the group that exercises power and the group concerning which this power is exercised; an organized coercion as a basis of exercising power.

Let us note that neither the foreign nor the Russian political and legal literature contains a common definition of both state and (broader) political power (Lyubashits, Mordovcev & Mamychev, 2013) that speaks about the complexity of this phenomenon and polysemy of the corresponding category. Nevertheless, focusing on the essential side of policy, its interaction with the law, any administrative, managerial and law-enforcement practices, a number of the domestic and foreign researchers seek to formulate the tentative definition of the state (political) power (necessary for them to solve the specific objectives). However, forgetting that "policy", for instance, according to M. Weber, "makes a very broad sense and covers all kinds of activity according to the independent guidance".

LITERATURE REVIEW

At the turn of the 20th and 21st centuries the Russian legal and political science gradually moves away from the universalism of a class approach to the state, law and power, and gets onto the realization of these phenomena and the organization of imperious relations, first, under the liberal and legal methodologists who have not provided any coherent picture of the Russian nationality that do not meet the needs of the modern state and legal construction, then in a wider socio-cultural (for instance, conservative or Euroasian) conceptual context (Agamirov, Sarychev, Mordovcev & Mamychev, 2015; Mordovcev, Mamychev & Mordovceva, 2015).

In general, researching the state and trajectory of the domestic imperious practices gives many problems and contradictions if to consider them from a violence (coercion) institution being included in the domestic political and legal life.

Generalizing the latest achievements in this scientific research sphere, one can distinguish several principal directions of studying the phenomenon "violence" in the Russian imperious space: a number of authors present scientific articles and monographs devoted to the problems of the state coercion, its forms; the issue of the place, role and limits of violence in the domestic nationality from the viewpoint of the State (public) power's legitimacy, thereby including the legal, political and socio-psychological aspects, are pursued by other researchers (Lyubashits, Mordovcev & Mamychev, 2015; Lyubashits, Mamychev, Mordovcev & Vronskay, 2015). In this

context, there is an intensive updating of knowledge in this scientific and heuristic sphere in modern Russian literature.

METHODOLOGICAL GUIDELINE AND TOOLS

In this scientific article the main problems were researched in the context of using the principle of complementarity about understanding the specificity of the power structures organization in the Russian political and legal sphere, when political institutions, structures and mechanisms determine the social and cultural reality, its character and trajectory in many respects, on the one hand; the efficiency of their functioning and stability of the power structures are predetermined by many cultural and socio-mental factors, on the other hand,. The concept of the government's legitimacy is relied on understanding and somewhat the explanation methods. In general, it corresponds to the heuristic attitudes of the post-nonclassical (understanding) humanities (Panarin, 1994).

THE MAIN PART

V.A. Bachinin offers several options of understanding the term “policy”, one of which is as follows: “The sphere of the public civilized life that covers the public relations between subjects lodged with powers and duties, participating in state management, the activity of power institutions, which express and defend the interests of certain social groups” (Bachinin, 2005).

In general, it is no coincidence that when defining the specificity of policy among its three dominants, the power, which is considered as the most traditional basis of a national political life, is always high-priority. Moreover, up to the end of the 19th - the beginning of the 20th centuries the phenomenon “policy” was mostly identified with State power. When just the process of various political and legal institutionalization of non-state institutions (parties, lobby groups, Mass Media, etc.) had brought to completion, the subject (or subjects) of the state and political power ceased to coincide, and the phenomenon “policy”, the political power became considerably complicated that, however, brought the theories of M. Foucault, E. Durkheim, R. Merton, etc. into being.

Nevertheless, “policy” is always connected with a support of the existing system, the mechanism of legitimizing State power institutions, whose content and used set of means are certainly different, depend on many factors (the law-mental specificity that is traditional for this or that ethnos of religion, the national structure of a state, customs, etc.). But under the generalizations accepted in modern jurisprudence, “policy” is related to the category ‘political regime’ mostly defined as a “set of norms, methods, ways of power and society interaction, which are shown in implementing the law that characterize the qualitative condition of the state and society at a certain stage of its development” (Kurskova, 2008).

It is clear that such definitions tackle the problem in the most general view, as they focus the reader on an obligatory “implementation of a law” in any kind of the political (or state and legal) regime. Most likely, it is a due option, but it is not a real one, as, actually, imperious practices both in the past and in the present are more difficult, so norms and methods of power elites and society interaction cannot be treated as legal ones (especially as law is distinguished in the non-positivistic theories).

Within the context of this article, the question falls into several elements, which constitute the problem. They are as follows:

1. State power cannot do without using those or other (it would be desirable, of course, legitimate) forms of violence against society that is connected with the nature of state power, and also with the essence of law as a special (state) regulator of the public relations provided with the possibility of a state coercion (in practice, the right and the law do not make any sense without the will of a state and the corresponding imperious mechanism). Though, for instance, there were cases of preserving and functioning the legal norms at the level of the national custom, traditions, supported by the strength of the national opinion in the Russian history. However, such situations do not erode attributes of the law at all, but they only testify to the crisis state of the relations between power elites and society (“The tsar and the land”) that took place during the Distemper, the era of the Petrovsky transformations and the postsoviet reforming (in the 90s years acad. V.N. Kudryavtsev clearly designated the policy of the double standards of democracy in the sphere of legality and legal norms) (Kudryavtsev, 1994; Kudryavtsev 2002);
2. State policy must be directed to preventing violence and any threats of violence against society in general, separate social, ethnic groups, confessions, a certain person that must be carried out within and from the viewpoint of the law, especially as the law in the modern world (provided that other regulators, unfortunately, in many respects, had already depleted their ordering resource) is a basis and a reaching consensus source, affords ground for accommodating differences over public relations (We do not agree with the opinion of V.M. Rozin who considers that “the law is extrasocial, we should admit it openly. Moreover, it is over social, because it is optional, not a primary condition for human life” (Rozin, 2000). Indeed, the law was never and cannot be a primary regulator of public relations, although by virtue of its public and power nature, and gives way to morality, religious norms, customs, etc., but it does not lose its social nature, it retains its position in the social regulator system);
3. The specificity of the democratic, authoritarian or totalitarian political regime involves this or that option of solving the dilemma “the force of authority” - “the authority of force”, the former assumes a very broad set of

ways of influencing dependents (from the legal to nonlegal ways, from belief to coercion, from the legal forms of using violence to a violent despotism), the latter emphasizes a violent option of pursuing the state policy in all or, at least, in many spheres of the population's life activity. It is considered to be, that "the force of the power" is peculiar to the developed democratic regime, a number of the "moderate" types of authoritarianism, the model of a police state. The totalitarian regime is relied only on the power of the force, on an open violence or its threat. Really, one cannot claim "violent practices" dominance concerning the totalitarian (or dictatorial and totalitarian) regime and, as the saying goes to dismiss the ideological and manipulative factor of influencing dependents (involved, however, in all regimes) (Baranov, Ovchinnikov & Mamychev, 2015);

4. There is no unified and universal formula of achieving and preserving the authority of the government for "all times and peoples". "The authority of force" is habitual and clear, effective and, therefore, it is legitimate and authoritative for one type of political and legal cultures. Using other norms, methods and ways of power influencing on society can lead to chaos, marginalizing many segments of the population, violence from certain representatives of society (robbers, nihilists and gangster groups), ethnoses (ethnic conflicts) and even to a state collapse. In Russia, for instance, beginning from Ivan III and till the Soviet period, the violent forms dominance ensured nationality preservation as it was, an accrescency of new territories and relative harmony in the interethnic relations. In this regard, one cannot say that the state violence was "blind", "enthusiastic" and "infinite". The orthodox and religious spirit, the church, its certain figures being sad ("pechalovanie") for the people softened the pressure of the power elites (the truth was not always the expected result), influenced "the force of government" not contradicting "the strength of mind", the special Christian "blessing". In the absence of the civil society such activity of the Russian Orthodox Church was of very importance to preserve the relations between the authority and people. For other civilization institutions "the authority of force" existed at a certain stage of the historical development, then (besides, owing to a number of circumstances) it was evolved into "the force of the power": the legal, contractual ways of the power elites and the population interaction began prevailing. Especially as "the law of the West appeared from the two primary sources: the Roman Law and the City Government" (Berman, 1998) and became its main social language (Shakhbanova et. al, 2016), a universal way of social interaction that legalizes violence from State power institutions and minimizes other forms of violence in society, promoting prevention of these negative manifestations (Ovchinnikov, Mamychev & Mamycheva, 2015).

Now, under the serious globalization changes the State power, of course, retained its ability to impose its will to dependents, its nature, its attribute and its essential aspect, etc. are in it. Besides, the forms of such “imposing” and its ways became very and very various in the modern world:

1. direct physical violence, the legalized coercion;
2. encouragement;
3. communicative influence, i.e. cooperation, rivalry, coordinated or confrontational communication;
4. information communication (influence), i.e. training; broadcast; to set up various organizations and socio-political movements through which the will of the ruling group;
5. ideological and psychological influence;
6. hints, i.e. an unostentatious introduction of attitudes or prejudices, which are favorable for the power in mass consciousness;
7. to block the undesirable consequences, i.e. to prevent a competitor from a race for power;
8. political marketing, i.e. artificial control over needs, which only the sovereign (subject) of the power can satisfy;
9. compulsion: promises, privileges, promises, bribery, etc.
10. information direct and indirect control, exercised by means of cautions, recommendations, revenge, etc.

As we see, state (political) power is provided for both the direct brute force, and the threat of its application, wealth, prestige and authority (certain leaders or power elite), both control, and encouragement, various information and manipulative technologies and so forth. Therefore, a legal state is obliged to consider signs of power, features of the mechanism of its realization and to be able to extinguish their negative consequences and lines in time, or not to allow their outgrowth for delimitation.

Thus, political violence in the modern world is a physical coercion used as a means of imposing a subject’s will for possessing the power, first of all, the state one, its uses, distribution and protection (Pidzhakov, 2002).

There are also various typologies of the political violence. So, J. Haltung distinguishes aggressive and defensive political violence, deliberate and undeliberate one. He believes that there are several combinations of these types: deliberate aggressive violence, undeliberate aggressive violence, deliberate defensive violence, undeliberate defensive violence. This typology focuses on an initiator of the political violence and on the relations between a character and act of violence.

“...People are not just killed by means of direct violence, but their social structure is also killed”.

T. Gurr points that there is a state violence, its agents and the violence of masses and classes. The state violence is a use of force for preventing citizens' deviant behaviour and internal tranquility maintenance.

The causes of violence can be various. They are as follows: psychological, sociocultural and political causes. So, the institutionalization of imperious relations is the most important factor that influences the development of a political violence.

Many paradoxes of the national history, its unexpected turns showed it more than once: the collapse of the political center every time involved the failure of the state, the paralysis of the habitual social and regulatory forms, which often threatened the total disintegration of all system of the social relations and, as a result, the national legal system as a complete cultural and historical phenomenon. It also occurred at the beginning of the 17th century, after the extinction of the ruling Rurik dynasty both in 1917 (and in 1991). Every time there was either a quick or gradual restoration of the strong center of power, and also the habitual ways and forms of influencing the population were a prerequisite for overcoming the state crisis. The Russian State turned out to be almost not functioning and the Russian society became uncontrollable without it. Moreover, the Russian political system never created notable legal and socio-psychological prerequisites for force appearance and integration, capable to act as a real political opposition - the necessary counterbalance of the State power constraining the factor of this power.

“The underdevelopment of an average level of the power and institutions being between the tsar and the peasants bearing burdens was an important feature of the Muscovite state ... only at the end of the 18th century by the Royal Decree of Catherine II, the Russian nobility was granted the right for self-organization. However, up to the fall of the monarchy this right was extended only to the local self-government”, - the German researcher Mr. Simon notes.

Thus, “in a western way” the complex and many-sided relations between society and state in the conditions of the Russian history just “disappears”, is eliminated by the specificity of the domestic legal and political sphere: the “cathedral” egalitarianism does not assume forming the classical civil society, but it denies it in principle.

In this similar light, it is also possible to consider modern political discourses. The events of the turn of the century exposed generally the old “as the world” discussion about the need of constructing (under our conditions - reviving) the so-called strong state. This idea appears in the most various terminological constructions.

For instance, acad. B.N. Topornin suggested using the term “strong state”. M.V. Baglai objected justly that the term “strong state” was yet unknown to the legal science. He supposed that the category belonged to the state apparatus practice.

D.N. Kozak just not used this term, but he “added” the predicate “legal” to it by complaining about “a contemptuous disregard” of the enormous potential, built in a strong legal state.

V.S. Nersesyants took up a moderate and critical position. He (probably, one of the only) switched the discussion over to the legal (not to the political!) sphere. In this regard, V.S. Nersesyants reminded that the regulations for a strong state was beyond the constitution that involved the statement “state of force” and suggested changing the focus and speaking about the formation of a sovereign nationality in the country, the supremacy of the state power and a constitutional legal order. He (the most famous representative of the libertarian and civiltarian school in the domestic law) writes: “A legal state” is an antithesis to “a state of force” (Nersesyants, 2001).

One thing is clear that the attempts of one party “to clear” a state from the law, and others “to separate” the law from a state, very unfortunately, worry modern legal scholars than the priorities designated by a few authors in the research of the basic principles of the state and the law, as it must lead to the formation of a conceptual context, needed for realizing various phenomena (including violence).

CONCLUSION

The prevalence of ideas about the “strong state” (in various professional communities and at an ordinary level) as well as the embeddedness of mainly positivistic schemes in the sphere of the scientific and professional legal consciousness, are quite hasty to declare wrong, casual or “vicious” tendencies in the domestic legal and political science. These phenomena cannot be just torn off from the social practices constituting them, so they should be considered in the context of the dominating style of a legal and political thinking, the way of a political and legal activity and the character of the social relationship, but not from the viewpoint of whatsoever the best and the most attractive valuable and target absolutes are.

It is likely to be the fact that the similar analysis attracts not only its theological value, but also its operationalism, as it “connects” conceptual constructions and empirically observed legal, political and economic events (practices, events, processes, etc.) and conforms the thought of a subject and the subject of a thought, attaching the equal importance to these aspects of the research.

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