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Development of the "main grounds of rules" for public municipal administration of capital cities and Odesa

Напрацювання «головних підстав правил» для громадського міського управління столичних міст та міста Одеси

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Abstract

This study is dedicated to exploring the practice of building a local self-government system in the Russian Empire, which differed from the European experience. This system was created exclusively through the government's initiatives and efforts, with minimal public intervention. The combination of methodological approaches to solving the set tasks relied precisely on the historical dimension. Combined with a functional approach, it allowed for reconstructing a systematic picture of the researched subject. This way, government measures were analysed to develop the "main grounds of rules" for public urban administration of capital cities and Odesa. Special attention was paid to the differences in the Regulation on the Public Order of the City of Odesa regarding implementing the principle of all-class inclusiveness and independence in public administration. Given the urgency of the problem of self-government for society, it was highly politicised, especially by Soviet historiography, and was far from impartial research. Therefore, the authors aimed to provide an unbiased view of the legislative process. Prospects for further research lie in seeking ways to return the self-governing traits genetically inherent to Ukrainians and to build Ukrainian statehood based on the dominance of local self-government in the political-organisational and institutional-functional aspects.

Анотація

Дане дослідження присвячено дослідженню практики побудови системи місцевого самоврядування в Російській імперії, яка відрізнялася від європейського досвіду. Ця система була створена виключно ініціативами та зусиллями влади, з мінімальним втручанням громадськості. Поєднання методологічних підходів до вирішення поставлених завдань спиралося саме на історичний вимір. У поєднанні з функціональним підходом, це дозволило реконструювати системну картину досліджуваного предмета. Таким чином, були проаналізовані урядові заходи щодо розробки «основ правил» громадського міського управління столиці та Одеси. Особливу увагу було приділено відмінностям у Положенні про громадський порядок м. Одеси щодо реалізації принципу станової сукупності та незалежності державного управління. Зважаючи на актуальність проблеми самоврядування для суспільства, вона була дуже політизована, особливо радянською історіографією, і була далекою від неупередженого дослідження. Тому автори мали на меті надати неупереджений погляд на законодавчий процес. Перспективи подальших досліджень полягають у пошуку шляхів повернення генетично притаманних українцям самоврядних рис та розбудови української державності на основі домінування місцевого

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самоврядування в політико-організаційному та інституційно-функціональному аспектах.

Ключові слова: місто, самоврядування, громада, всевладдя, місцеве самоврядування.

Introduction

Most specialists associate establishing local self-government in Europe with the growth of cities, specifically with the trend that emerged on the continent in the 11th century and developed over the next three centuries. Starting from the Magna Carta, the process of legally establishing the main principles of local self-government began in many European cities (Kyrychenko, 2020). The right to self-government of city dwellers is formulated, and relations between the urban community and individuals are normalised – taking oaths, mutual assistance, the obligation to pay taxes to the city treasury, the duty to defend the city from enemies, etc. The primary efforts regarding the legal formalisation of local self-government were made in creating the Magdeburg Law, which provided a legal framework for medieval urban administration. The modern era brought specific features to the legal regulation of local self-government in Western European states depending on their historical, geographical, national, and structural development conditions. Thus, we have the unique experience of organising English local administration, which to some extent was considered in creating the Prussian model of local self-government, as well as the example of the "decentralisation" approach that emerged during the development of local self-government after the French Revolution (Paneyko, 2002).

The Western tradition of local self-government was historically created and established as an essential element of a modern, developed democratic society. It is characteristic that the impetus for developing this system came "from below"—from the townspeople who formed a single territorial community. The forming factor of urban self-government was the citizens, endowed with certain rights based on voluntary participation and financial independence, who constantly worked towards the legal formalisation of the rights and duties of local self-government institutions.

Apart from this, the Western European vector of local self-government system development was the Russian Empire, where most socio-economic processes occurred significantly slower than in the leading European countries, particularly concerning urban development and the further growth of cities. This factor determined the presence of specific features in the construction of the empire's local self-government system, which was created exclusively through the initiatives and efforts of the government with minimal public intervention.

It is important to remember that the Russian Empire had a history of social class self-organization that was deliberately encouraged by the state. During the second half of the 19th century, local government reform made evident the principles and constraints of estate. The voters were divided into three groups based on the amount of taxes paid, which inadvertently benefited the guild merchants and excluded employees, individuals in free professions, and other citizen categories without real land from the election. Only caste was allowed for peasant self-government. It eliminated the chance that those from outside the rural community who lacked land holdings may have been involved.

Russian municipal history saw "zemstvo," city councils, and councils as the most "standard" representations of local administration at the national level. For the past 150 years, academics have been interested in their structure and activities. The topics covered include the planning of reforms, the development of election laws, the authority granted to local governments, etc. Nonetheless, it is clear that there aren't enough studies looking at the particulars of the local self-government reforms that were implemented during that time in the Russian Empire, their unique regional characteristics, and how they differed conceptually from Western European methods. Investigating this subject is crucial for understanding contemporary issues affecting local self-governments in post-Soviet area as well as for history research.

At first, we attempted to systematize available resources in the area under consideration, which allowed us to carry out analysis based on formal-legal point of view. In further development of the investigation, we consider specific cases of cities, in particular St. Petersburg and Odessa, concluding with the socio-economic implications of government legislative initiatives.

Literature Review

Despite the existing interest of scholars in this issue at all stages of its existence (Golovachev, 1871; Semenov, 1901; Bogdanov, 1906; Nemirowsky, 1911), though there was an inevitable decline in relevant studies during Soviet times (Velikhov, 1996; Sheffer, 1939; Gorlovsky, 1948; Klokman, 1964; Nardova, 1984), the analysis of subsequent research on local self-government demonstrates a lack of consensual understanding and well-founded assessments of this phenomenon, its nature, historical roots, and role in the governance of society (Vinogradov, 2005; Solovyova, 2007). It is worth noting the dominance of scientific works dedicated to zemstvo (rural self-government) topics in historical and historical-legal historiography compared to studies that analyse the problems of urban self-government. The general paradigm within which these studies were conducted is also essential. Only recently have domestic researchers started to consider the history of local self-government in the context of the development of civil society and the formation of a legal state. Moreover, the country's current state of local self-government can confidently be described as critical and in need of reform efforts. This is what determines the relevance of the research, the urgent need to identify management mechanisms and principles that would ensure the effective functioning of representative authorities in cities, establish a proper balance between centralisation and decentralisation, create an organic mechanism of interaction between state authorities and local self-government, and continuously improve self-government as an integral element of democracy.

Materials and Methods

Approach. The object of the study is local government in the Russian Empire at the end of the 19th - beginning of the 20th century. The subject of the study is the legal acts that regulated the creation and activities of local self-government in the Russian Empire, as well as projects for changing them and the practice of appropriate implementation. The choice of the research period is due to the fact that the development of the local government system took place in the second half of the 19th - early 20th centuries against the backdrop of socio-economic and political processes that were qualitatively new in the history of Russia. The reforms had a strong influence both on the implementation by the state of its main functions, and on public consciousness, on the activation of public life. On the one hand, the country was increasing its economic power, on the other hand, the crisis of autocracy was strengthening. The situation of the population was negatively affected by financial crises, inflation, frequent crop failures, epidemics and wars, which actualized the need to create an effective system of self-government capable of solving problems at the local level. The methodological basis of the study is the general scientific dialectical method of cognition, general scientific methods of analysis and synthesis, as well as special methods: structural-functional, formal-legal, retrospective, comparative. The institution of local self-government in the Russian Empire was studied in development, in relationship and interaction with local central authorities, with the existing socio-political situation.

Sources. As the main source of research, the work uses the legislation of the Russian Empire on local self-government, as well as the works of historians and legal scholars on the topic of local government reforms in Russia during the period under review - both in general and in the cities of Moscow, St. Petersburg and Odessa. Criteria for inclusion for scholarly sources were developed based on the general principles of systematic reviews and grounded theory, using first the keywords and then summaries, prefaces, and book/articles reviews. The choice of legislative documents was carried out based on sequential search for legislative documents on the functioning of local government reform in the period under review (both for the Russian Empire as a whole, and for capital cities and the city of Odessa).

Analysis. Regarding the methodological aspects of this study, it should be noted that, given the impossibility of explaining numerous problems of legal and state reality using classical and non-classical methodologies, a postmodernist methodology was predominantly applied. It is worth mentioning the combination of methodological approaches that integrate the provisions of classical, modernist, and postmodernist methodologies to solve the set tasks, relying specifically on the historical dimension. Because historical understanding of a particular process allows us to comprehend its essence and identify patterns of its development, under these conditions, the methodological basis of this research was the functional approach, the essence of which lies in the perception of primary sources in the context of their functioning within the tradition that generated them. To this end, several primary sources were analysed within knowledge systems to investigate the possibilities of disseminating previously formulated theories and their influence on other knowledge systems. Naturally, the research object was examined based on a dialectical paradigm where problems acquire a historical character and are understood through the revelation of existing contradictions.

Research Results

From a formal-legal point of view, urban self-government in the Russian Empire begins its count from the "Charter to the Rights and Benefits of the Cities of the Russian Empire" (more commonly known as the Charter of the Cities or the City Statute of 1785 (Lieven, 2008)). Researchers have praised this normative-legal act, calling it a kind of constitution. (Kamensky, 1994), or the "cornerstone" of Russian urban legislation (Dityatin, 1875). In the empire's territories, this was the first legislative attempt to change the system of public administration based on the principles of all-class inclusivity and the independence of electoral institutions. However, the Charter's general nature, gaps, and certain contradictions led to the realisation that this was not a fully organised law but a program for the government to follow in urban reorganisation (Kollektiv, 2015).

According to the Charter, "The urban inhabitants of each city are granted permission to assemble in that city and create an urban community...". Urban inhabitants who formed the urban community were meant to be "all those who are long-term residents in the city, or were born there, or settled there, or have houses or other buildings, or own city or land, or are registered in a guild or a workshop, and thus serve or carry obligations to the city" (Kollektiv, 2015). Thus, when defining the urban community, non-class characteristics were chosen: residency, ownership of real estate, engagement in trade, craftsmanship, and city service.

This broad representation in the urban governance system could not be reproduced in subsequent legislation. Soon, the "urban community" concept lost its original meaning as an institution encompassing the entire urban population. The Code of Laws of 1842 referred only to the association of merchants, townspeople, and craftsmen. Serving in elective positions was mandatory, responsible, and costly, thus lacking prestige. The tasks imposed by the state on elective bodies, such as noble assemblies and magistrates, were far from serving local public interests and were reduced to fulfilling bureaucratic orders for tax collection and proper performance of obligations to the state. Therefore, elective service was not attractive even to those who wished to work for the community's benefit. It is not surprising that merchants of the 1st and second guilds, who in 1824 obtained the right to refuse election to a city position, regarded this right as a privilege. In turn, the unwillingness of the nobles to participate in public affairs was so natural that when, in the 1840s, the question of the service class's participation in urban governance arose, it was necessary to convince them that they had received this right back in 1775 (Kizevetter, 1912).

However, not all members of the service class sought to avoid participating in their city management. By the late 1850s, petitions from urban homeowners who were nobles started arriving at the Minister of Internal Affairs, requesting the right to participate in urban self-government. For instance, in 1861, a petition to the minister was sent from nobles who owned houses in the city of Poltava, asking for the right to participate in the management of urban affairs, as the nobles of St. Petersburg had (Hourly History, 2022). A similar petition was received in 1869 from the nobles of Kherson (Hourly History, 2022). This activity can be explained by the fact that according to the provisions of the Code of Laws on Estates, a nobleman who owns real estate in the city was required to bear all civil burdens on par with urban inhabitants while remaining exempt from service (Lieven, 2008). However, most nobles and merchants did not aspire to devote their time to public affairs. The Cabinet of Ministers noted that the best citizens avoid urban elections and that public service in cities is very burdensome. As a result, it was necessary to establish a more solid foundation for the order of public elections and the subsequent service of elected officials to stimulate the desire among citizens to engage in public affairs (Mullov, 1864a).

Thus, in the first half of the 19th century, self-government in cities existed purely nominally. Neither magistrates, town halls, six-member councils, or city mayors had absolute power, which was entirely concentrated in police institutions and budget committees that administered urban funds.

Regarding practical steps from the government, they were taken during the reign of Nicholas I and even earlier. It all started from the "top". In 1821, after completing a study on the urban economy of St. Petersburg, the Ministry of Internal Affairs submitted a proposal to the State Council regarding the reform of the capital's city council and created the "main grounds of rules" by which the council should temporarily be guided. The development of the entire statute was entrusted to the Commission of Laws (Varadinov, 1862). Since then, work in government institutions has continued perpetually.

The Commission of Laws began by studying the European experience, familiarising itself with how self-government was organised in the leading capitals of Europe. After this, the task of developing a project for public order in St. Petersburg was assigned to Privy Councillor M. A. Baludjansky. The State Council reviewed the result of the joint work in March 1827. The highest approved decision was to reassign such a broad and complex matter to the Ministry of Internal Affairs to develop a complete project without being limited by the rules established by the Commission of Laws. For this purpose, a Special Committee was created within the ministry, which developed another project. However, the leadership of the capital, headed by P. V. Golenishchev-Kutuzov, assessed it as not conforming to the fundamental laws of the empire and incompatible with the needs of the people. The basis for this conclusion was that the project was conceived in a European style and provided a very complex mechanism of power organisation in the city, significantly complicating government oversight. The revision of the project continued, and in 1837 and 1840, it was reviewed again. However, the scarcity of information about urban economic management did not allow the developers to create a document that met the needs of the capital. In 1842, a decision was made, based on a thorough analysis of the Ministry of Internal Affairs' affairs, to highlight the state of some regions of public urban administration. The following year, by order of the Minister of Internal Affairs L. A. Perovsky, the St. Petersburg City Council, the Merchant Board, the Townspeople's and Craftsmen's Administration, and other public institutions of the capital were audited (Mullov, 1864b). The audit revealed horrifying facts about the urban self-government's non-compliance with the current legislation.

Realising the actual state of affairs, the Ministry of Internal Affairs entrusted the development of the Urban Statute of St. Petersburg to the head of the city's economic department of the Ministry of Internal Affairs – M. O. Milyutin. The new draft of the statute for public administration in St. Petersburg attempted to correct all the shortcomings revealed by the audit. However, given the historical conditions, the developers did not dare abandon the class-based approach to urban self-government. However, M. O. Milyutin and his colleagues were familiar with the municipal systems of the leading European countries, where there was a gradual move towards all-class and even classless representation, particularly with the experience of Prussia, where after the reform of H. von Stein in 1808, elections to municipalities were held by urban territorial districts without considering class affiliation. In some lands of the Prussian Kingdom, such as the Rhine provinces, Westphalia, and Poznan, where the influence of French revolutionary era legislation was felt, municipal systems operated that had almost eliminated class restrictions (Dityatin, 1877).

After reviewing the draft statute, the State Council, after making the necessary corrections to the bill, approved it, and the tsar endorsed its opinion on February 13, 1846 (Kollektiv, 2015). The statute aimed to introduce the main rules by amending the existing laws regulating urban self-government, removing contradictions, normalising gaps, and clarifying specific provisions. However, given the general content of the statute's norms, by imperial decree to the Governing Senate on February 25, 1846, it was ordered to establish a temporary commission to develop the "principles" of the statute and to draft detailed instructions necessary for the opening of new city presences. The commission developed procedures for public meetings, elections, and the opening of presences based on the principles of the 1846 Statute and instructions and rules in various areas of public administration. After a preliminary agreement with the Military General-Governor – the head of the capital – these developments by the commission were submitted to the Ministry of Internal Affairs and, after their approval, were submitted for consideration by the Governing Senate.

Over time, the capital's experience was extended to Moscow (Setton-Watson, 1967), Odesa, and Tiflis. Just as in St. Petersburg, before the implementation of the 1846 Statute, urban self-government in these cities was far from the City Charter of 1785 provisions and had the same shortcomings as in the empire's capital. Therefore, in 1859, the Governor-General of New Russia and Bessarabia, Count A. G. Stroganov, petitioned the tsar to apply the statute implemented in St. Petersburg to Odesa. To support his petition, the Governor-General noted that due to its commercial status and the complexity of its urban economy, Odesa holds the first place in Russia after the capital. However, the absence of a General Council, the lack of representation for nobles and commoners who own real estate in this city in matters of urban management, the absence of a proper system in urban elections, and the lack of independence of the City Council hinder urban public administration and have an extremely negative impact on the urban economy. The Ministry of Internal Affairs responded favourably to Count A. G. Stroganov's petition. It established a special commission under the leadership of the Odesa city governor, which included the district head of the nobility, the city mayor, and honorary citizens and officials. Using the Statute on Public Urban Administration of Moscow as a basis, the commission developed a corresponding draft law, which, after

being refined in the Ministry of Internal Affairs and reviewed by the State Council, was approved by the tsar on April 30, 1863 (Setton-Watson, 1967).

However, the Statute on Public Urban Administration of Odesa had certain peculiarities. In the Odesa Council formed based on the statute, not five classes of townspeople were represented, as was the case in St. Petersburg and Moscow, but only three: 1) owners of real estate of any origin who are neither merchants nor townspeople; 2) merchants accredited by the Odesa guild; 3) townspeople of Odesa. As can be seen, the second and third groups of urban inhabitants were represented exclusively by Odessans. The first group was classless and included all those who had real estate. This included out-of-town merchants, townspeople, and hereditary nobles and artisans who did not receive a separate category. This approach was justified by the consideration that homeowners form the basis of the urban population, bear the burden of the most essential duties, and generate the city's primary income. Therefore, dividing them into existing state classes – hereditary and personal nobles, peasants, etc. – became impractical (Kollektiv, 2015). Thus, although the Odesa statute did not match the 1785 City Charter in terms of implementing the classless principle, it did advance to some extent compared to the capital's 1846 statute.

It was also considered impractical to subordinate the Odesa Executive City Council to the Governing Senate, as with previous capital councils, because the Senate already had enough work. It was decided that only decisions subject to approval by the city governor would be submitted to the Senate for review. The rest were to be appealed first to the city governor and, if there was disagreement with his decision, then to the Governor-General, who, if he disagreed with the council's decision, would forward the complaint, with his conclusion, to the Senate (Kollektiv, 2015).

A specific difference in the Statute concerned the electoral process. The Odesa Statute established a unique voting procedure for imperial legislation. It abandoned the usual process of differentiated voting by layers, which was confusing and time-consuming and instead tested a system of positive voting by slips (ballots). This simplified the election process for the voter and made it more thoughtful (Kollektiv, 2015).

Another notable feature of the Odesa Statute was that it did not provide for a representative of state authority – a "member from the crown" – in the Executive City Council (Kollektiv, 2015). However, the 1846 Urban Statute became a model for developing local and urban self-government in the Russian Empire. (Kazachenko, 2009).

Notably, the concept of combining bureaucratic and public institutions in local self-government was born in the cities, and the idea was found in the noble deputies' mandates of 1767. However, the mandates expressed the desire to subordinate bureaucrats to public electees. In contrast, Catherine's reform did the opposite by assigning all current, substantial district work to the elective institutions and subordinating them to the provincial leadership. Nonetheless, the state acknowledged the necessity of involving local communities in administrative affairs, which the bureaucracy could no longer manage alone. However, these reform ideas were hindered by serfdom and administrative arbitrariness. Therefore, just a year after the promulgation of the Manifesto on the Most Gracious Granting of Rights to Serfs as Free Rural Inhabitants and the Regulation on Peasants Leaving Serf Dependence on February 19, 1861, according to the reform program of P. O. Valuyev, which included the reorganisation of cities as the next step, there was a Supreme Order by Alexander II on March 20, 1862, which instructed the Ministry of Internal Affairs to immediately start improving public administration in all cities of the empire (Economic Department of the Ministry of Internal Affairs, 1877).

Traditionally (as was done during the development of the peasant reform), the ministry began by collecting information and determining the state of affairs in the cities. By a circular from the ministry dated April 26, 1862 (Economic Department of the Ministry of Internal Affairs, 1877), the leadership of the provinces in the European part of the empire was invited to provide their thoughts on implementing measures to improve public administration in the cities of the empire. To this end, special commissions were ordered in the provinces composed of urban inhabitants to formulate their proposals according to a particular ministry program. As a result of the work of 595 city commissions, the ministry described the economic state of urban settlements in the European part of the empire, and the commissions' thoughts were compiled into a corresponding code. In addition, the ministry took care to gather other information. Thus, a historical review of government measures regarding the organisation of urban public administration in the empire was compiled to serve as an informational and reference base for developing the general reform project (Economic Department of the Ministry of Internal Affairs, 1877). Information about the current state of

municipal institutions in the leading Western European countries and their comparative analysis conducted by the Vice-Director of the Economic Department of the Ministry of Internal Affairs, M. I. Vtorov, was also gathered (Vtorov, 1864).

Based on the collected material, the initial draft law on urban self-government began, which was developed in 1864. Although some modern historiographers insist that the three-tier electoral system first appeared in this draft law, an analysis of the Statute on Public Administration of the City of Odesa dated April 30, 1863, proves that the three-tier electoral system not only existed as a concept in government developments but had also been implemented in legal norms and provided, albeit small, practical experience in its application.

The history of state and law of the Russian Empire provides an example of interaction and interpenetration of state power and local self-government. The balance of state administration and self-government in Russia has often been upset in favor of the former, which is explained by the political and geographical factors of the country's development. However, the socio-economic realities of the development of large cities gradually led to positive changes in the degree of their autonomy, features of voting rights, etc. The conducted research indicates that the study of the history of local self-government in 19th century Russia is not only relevant, but also extremely interesting from a scientific point of view. It makes to think about such issues as the essence of democracy, the continuity of democratic traditions, and the role of self-government in the system of state power.

Conclusions

The research that was conducted allows us to draw several conclusions regarding the development of legal foundations for the new public order in the cities of the empire. Firstly, the Charter to the Cities of 1785 first recognised the city as a self-governing entity with an independent sphere of activity from the state and, in essence, stayed within European practices. However, having created a legal foundation, it did not correspond to the state's development level of cities. It thus did not gain practical implementation, remaining a theoretical monument of legislative thought. Secondly, urban self-government came under the dominance of state authorities, turning into their lower-level branch. The government, having started the development of a new urban law at the beginning of the 1820s, found itself confused because none of the developed projects received support from the authorities, the nobility, or the merchants. Thirdly, public opinion did not accept the idea of all-class urban self-government, considering such a government approach as a blind imitation of the English or French experience. The government had to reassert the principle of all-class inclusiveness, which had been enshrined in the current legislation for over half a century. The introduction of public order statutes in the capital cities, and later in Odesa, was necessary to bring society closer to the practical acceptance of the all-class approach in different organisational models. It was the Odesa version of the statute that the government took as the basis for further development of the general statute on urban public administration in the empire. Fourthly, the changes that took place in the urban community cannot be explained solely by the government's legislative activity. The socio-economic development of cities influenced the correction of government legislative initiatives, ensuring their gradual development.

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