

Artículo de investigación**Social legal state as a constitutional value****Социальное правовое государство как конституционная ценность**

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Spin 5379-2555**Abstract**

In the 21st century, the discussion of constitutional values from the standpoint of designating arbitrary value judgments faced by the legislator of constitutional documents becomes quite relevant. Moreover, the fundamental constitutional principles, rights and obligations of each citizen are appropriately consolidated. Therefore, if we are talking about constitutional values, we take for granted a definite frame of reference as to what belongs to these values and, above all, we are talking about a socially-legal state as a constitutional value, within the framework of which the very fundamental civil public rights and obligations. However, the problems associated with the definition of the state as a socio-legal one in the context of constitutional values have by no means been resolved to date. In reality, today there is only a vague structure of what can legally be called "constitutional." Each constituent convention can distinguish certain aspects from existing values that can be recognized as "constitutional". Consequently, the structure of the socio-legal state and its definition as a constitutional value as a result of constitutional choice are very different in each individual state. The point is not only to "write" the new constitution, to fix the fundamental norms, principles, and also rights and obligations in it, but to ensure that all this is done in reality. Constitutional provisions are always interpreted in accordance with the spirit of the times, the dominant idea of the times, so that the fundamental rights and requirements of the democratic process are strikingly different in a particular time period. Therefore, we need a certain "coordinate system" that gives reason to consider the state of social and legal due to certain provisions. A practice without a system of constitutional values constitutional could cast

Аннотация

В XXI веке говорить о конституционных ценностях с позиции обозначения произвольных ценностных суждений, с которыми сталкивается законодатель конституционных документов, становится достаточно актуально. Тем более, что основополагающие конституционные принципы, права и обязанности каждого гражданина имеют соответствующее закрепление. Поэтому, если мы говорим о конституционных ценностях, мы принимаем как должное определенную систему отсчета относительно того, что принадлежит этим ценностям и, прежде всего, речь идет о социально-правовом государстве как конституционной ценности, в границах которого и происходит реализация тех самых основополагающих гражданско-общественных прав и обязанностей. Однако проблемы, связанные с определением государства как социально-правового в разрезе конституционных ценностей, отнюдь не решены на сегодняшний день. В действительности дело обстоит таким образом, что на сегодняшний день существует лишь смутная структура того, что на законных основаниях можно назвать «конституционным». Каждая учредительная конвенция может выделять те или иные аспекты среди существующих ценностей, которые могут быть признаны «конституционными». Следовательно, структура социально-правового государства и определение его как конституционной ценности в результате конституционного выбора сильно отличается в каждом отдельно взятом государстве. И дело не только в том, чтобы, «написав» новую конституцию, зафиксировать в ней основополагающие нормы, принципы, а также права и

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doubt on the preference of one particular value and law in a biased way and turn them into something completely opposite, in the legitimization of injustice in the name of constitutional law. This will be the case if the value of democracy justifies a dictatorship based on one-sided general elections, or if the values of equality are realized by state planning, which guarantees equal results, rejecting human freedom. In this study, the author analyzes the state legal and constitutional foundations of the formation and development of a socio-legal state and concludes that only the constitutional consolidation of the basic social privileges of a citizen will make it possible to determine the state as constitutional value.

Key words: Social state; constitutional state; constitutional value; social legal state; constitutionalism.

обязанности, а в том, чтобы это все выполнять в действительности. Конституционные положения всегда интерпретируются в соответствии с духом времени, доминирующей идеей времени, так что фундаментальные права и требования демократического процесса разительно отличаются в конкретном временном отрезке. Поэтому нам нужна определенная «система координат», дающая основания считать государство социально-правовых в силу определенных положений. Без системы конституционных ценностей конституционная практика могла бы поставить под сомнение предпочтение одной конкретной ценности и права предвзятым образом и превратить их во что-то совершенно противоположное, в легитимизацию несправедливости во имя конституционного права. Это будет иметь место, если ценность демократии оправдывает диктатуру, основанную на односторонних всеобщих выборах, или если ценности равенства реализуются государственным планированием, которое гарантирует равенство результатов, отвергая человеческую свободу. В данном исследовании автор проводит анализ государственно-правовых и конституционных основ формирования и развития социально-правового государства и приходит к выводу, что лишь конституционное закрепление основных социальных привилегий гражданина позволит определить государство как конституционная ценность.

Ключевые слова: социальное государство; правовое государство; конституциональная ценность; социально-правовое государство; конституционализм.

Introduction

The social legal state as a state-legal form is today a rather relevant topic; it is one of the most important elements of state development (Abramov, 2013).

However, many authors adhere to conflicting points of view regarding the definition of its nature. Disagreements also arise in connection with the definition of a social legal state from the standpoint of constitutional value. (Atagimova, 2013). In this regard, there is no consensus among scientists about the social legal nature as the constitutional value of the modern right-wing state.

According to some authors, the main task in the development of each state is to determine its social status (Rodionova, 2015). In order to obtain the title of “social state”, a country must go a long way at the stage of its existence, when the institution of society works and the interests of citizens are the highest value of the state.

The social and legal state carries out social regulation, which is associated with maintaining social discipline, organizing and developing social relations, minimizing social inequality and ensuring the social rights and freedoms of

citizens within the constitutional boundaries of the state (Zhinkin, Kovtun, 2015).

Constitutional law became a branch of law at the turn of the 19th and 20th centuries and underwent significant changes in the issues of defining and consolidating a social state in the context of a legal one. This happened due to the consolidation of the fundamental principles of the social state in the main state laws, thereby contributing to the final consolidation of the social and legal state as constitutional with the definition of the limits of its constitutionality in society (Acosta Fierro, 2018).

It should be noted that such a definition was made possible thanks to the Euro-American legal system, which has become a kind of "role model." In fact, having declared all socially significant human and civil rights and freedoms in the Universal Declaration of Human Rights as the core value, it is a kind of measure for these categorical concepts, which is the best evidence of the maturity of defining a social-legal state as a constitutional value. In this regard, many states were forced to reconsider their position regarding the definition of a social legal state as constitutional value and to secure all necessary rights and freedoms, based on their supremacy and priority over others. Russia was no exception. Accepting the Euro-American legal system as a model of constitutionality, Russia followed the path of enshrined values, entrenched fundamental rights, which make it possible to consider a social legal state as a constitutional value.

Therefore, similar constitutional concepts have a multinational history and are universally recognized as standards for a reasonable definition of the boundaries of a social legal state. The practical significance of the article lies in the possibility of using the results to improve theoretical approaches to the definition of the social and legal state as constitutional value. The contribution to world science is the study and justification of the essence of the modern social and legal state, which should not be manifested in the provision of targeted social benefits, subsidies and various social benefits that will not allow a person to live with dignity, but should be manifested in creating the necessary conditions for the success of the state and all its members.

Methods

In the course of the study, the author used both general theoretical and specific scientific methods of cognition. The evolution of

legislation, as well as individual problems of state-legal foundations of the formation and development of a social state, are considered as part of an objective process due to the development and change of social relations. Studies are based on the historical method, the formal dogmatic method, the method of specific legal research, the method of logical analysis and other methods and techniques. The comparative legal method was also used.

According to the theory of Lorentz von Stein, a social legal state should have a number of characteristics. First of all, we are talking about consolidating state obligations to society as a whole and to each individual citizen. This consists in the implementation of state coercion, for example, in the implementation of state social programs. In this case, the state is more interested in observing constitutionally fixed social priorities due to its vulnerability and will to self-preservation. At the same time, the social and legal state is interested in fulfilling its duties. The desire for self-development forces the state to use all possible methods of resolving contradictions that are dangerous for its integrity (Oleinikova, 2014).

Most authors define a social legal state as a state with a democratic form of government, the rule of law, the consolidation of socially significant and priority civil rights and the equitable distribution of public responsibility of citizens (Marshall Thomas Humphrey, 1950). His definition of a social legal state can be considered as a combination of democratic well-being and modern capitalism.

It follows that state institutions are funded by a social legal state, while allowing certain categories of citizens to enjoy certain state benefits (Bychkov, Feoktistova, Andreeva, 2017).

Modern social legal states differ mainly from earlier forms in their universality, comprehensive nature, as well as their "constitutionality". This is determined by the consolidation in the basic state laws of equal rights of citizens to social, as well as to political and civil rights.

As mentioned earlier, the main criterion for determining the degree of constitutionality in a social legal state is the consolidation of fundamental human rights, freedoms and guarantees in the basic state law. However, consolidation is not implementation yet. The "status" depends on the extent to which the state will fulfill its social obligations to the population.

In particular, the draft law “On the budget of the city of Moscow for 2020 and the planning period 2021 and 2022” defines the main priority areas - health care, education, social assistance - everything that is fixed and has priority state significance. This confirms the constitutional value in the social legal state, which is Russia.

Thus, the constitutionality of the social legal state is determined by the consolidation of basic social rights. Therefore, a social legal state is defined as a state whose duties include the creation of decent human conditions for life, the realization of the rights and freedoms enshrined in the Constitution and other legislative acts, the embodiment of the interests and needs of citizens and are guided by the principles of humanism and mutual responsibility, which is constitutional value.

A logical question follows from this definition: what is “constitutional value” and in what context the adjective “constitutional” (Afanasyeva A.A., 2016) can be used, i.e. Is the adjective “constitutional” equivalent to everything that is written in the constitution, which defines the state as social and legal (Pleshakov A.P., 2004).

Such use of the word “constitutional” suggests the possibility of increasing the significance of constitutional values. On the other hand, can there be restrictions on what is commonly called “constitutional values”? Therefore, the question arises: is it possible to limit the scope of constitutional values?

The Russian state as a social legal state with constitutional values is determined by the following basic criteria:

- It unites citizens belonging to different societies, ages, professions, religions and other groups of citizens, and makes up the population living in a certain territory;
- The Constitution is not only a legal act, but also the most important political document (Farber, 1979). Regardless of the level of socio-economic development in the country, this factor alone cannot create a community of people. Common values determine the cohesion of people. The ideals of Soviet people are in many ways utopian, but they are the pillars of the friendship of peoples of all ethnic groups and the basis for maintaining the state and stimulating citizens.
- An important factor in achieving national sovereignty is the freedom of the state to establish those values that allow for an independent foreign policy. Without the definition of universally accepted values, the expected results cannot be achieved. There is evidence that permanent members of the UN Security Council often disagree on key issues. Geopolitical states mean that Russia has values that take into account the priorities of the West and other modern civilizations, thereby not infringing on or dominating the external political arena, but at the same time, Russia adheres to a certain policy with all its might.

However, the theory of intrinsic value cannot reproduce extrinsic value. It is practically important to allow competition between traditional value and borrowed value. The opinions of the Constitutional Court of the Russian Federation and the European Court of Human Rights on parental leave for men were completely opposite.

Thirdly, the influx of immigrants vital to the economy will inevitably lead to the development of ideas that take into account the traditional foundations of Russian society and the opinions of citizens and tourists.

Fourth, the changing needs of various sectors of society and their relationship with the state are now obvious.

We are at a special moment in history, and the necessary interruption of modernization may not be another surplus, but the last catastrophe of the country's population. Constitutional values avoid stagnation because they set standards that must be respected. At the same time, they prevent the revolutionary destruction of established norms.

Defining the concept of “constitutional values” is not easy, since values can include processes, topics, objects, beliefs and norms. Some authors believe that constitutional values are “natural and social phenomena that represent the life and cultural well-being of people in society, whether they are real or ideal” (Tugarinov, 1960).

Other authors believe that “constitutional value is a realistic object and is considered a basic value, and its consolidation and guarantee is the use, implementation, protection of the Constitution of the Russian Federation” (Vitruk, 2009).

According to third authors, constitutional values are not always achievable. In some cases, they were not implemented. Equality is the fundamental value of modern democracies. However, the realization of civil political rights still largely depends on the citizens themselves, the social sphere and their place of residence.

In the modern constitutional aspect, the value phenomenon is reflected in three aspects: a) the Constitution is a value, b) it directly strengthens standards and value-creation systems, c) constitutional values are determined by the practice of its application.

Constitutional value is not always directly reflected in the Constitution. There may be objective and subjective reasons. Life is dynamic, therefore new values appear that were previously unknown or “rejected”.

However, it takes time to consolidate them in constitutional law. Sometimes granting them appropriate status is limited to sophisticated methods of constitutional reform. The constitution does not always regard a favorable environment as a value. In the second decade of the 21st century, the Internet and social networks are becoming more and more important. In July 2012, the UN Human Rights Council adopted a resolution on universal rights to use the Internet for free. It cannot be denied that Internet access is becoming an independent value embodied in the future constitution.

In some cases, due to incomplete constitutional texts, constitutional values are not directly enshrined in the constitution due to hasty approval of the authors or intentional removal from the previous edition. The Constitution of the Russian Federation does not determine the universal values on which a secure foreign policy is based. The law defines Russia as part of the international community. However, this definition with the above constitutional value is unequal. Only a few countries support Russia's recognition of South Ossetia and Abkhazia as a subject of international law.

The 1977 US Constitution proclaimed the values of security, friendship, enhanced international cooperation, and disarmament among nations. In contrast, the Constitution of the Russian Federation, the text of which, according to some authors, ceased to be ideological, contained “vital social obligations” (Rumyantsev, 2007).

However, no one should lose sight of the fact that one of the functions of the Constitution is

ideology. The ideology of the Constitution is based on the values of the constitution.

The value of the constitution is probably the process embodied in the Constitution, the goals that the government, society and the majority of citizens strive for, which determine the strategic direction of the country's development. Russian values were emphasized in a speech by the President of the Russian Federation at a meeting of the Russian Federation on November 5, 2008: justice, freedom, human life, happiness and dignity, international peace, a multicultural alliance, support for small nations, family traditions, love and loyalty, attention to youth, respect for the older generation, patriotism.

If national legislation and the current Constitution partially overlap, the definitions of “fundamental constitutional values” and “fundamental values of society and state” can also be called identical. In this case, fundamental constitutional values are the cornerstone of the pyramid of all other values. Basic constitutional values remain the same.

Fundamental constitutional values must be sustainable, understandable and shared by most people. They can be divided into the following types:

- Spiritual and moral (love and respect for the family, historical and cultural heritage, justice, kindness, enlightenment, work, family, friendship),
- Politics (sovereignty, citizenship, national development, peace, civil harmony, security),
- Law (legality of constitutional principles),
- Property (land, land), environment (environmentally friendly).

Article 2 of the Constitution of the Russian Federation proclaims that human rights and freedoms are of the highest value. To understand the importance of this consolidation, it is necessary to remember that many of the ideas mentioned in the Constitution of the Russian Federation arose during the period of the so-called “romantic constitutionalism”.

In the early 1990s, people tried to completely get rid of tyranny, and in fact totalitarianism not only deprived a person of his rights, but also weakened humanity as a whole.

The supremacy of human values stems from the standards of the 1948 Universal Declaration of Human Rights. Strengthening the human sense leads to an imbalance of values. The crises of European countries in recent years are associated not with the destruction of financial or economic systems, but with the lack of modern realities of humanitarian policy. State budgets are becoming increasingly unable to bear the burden of generally accepted obligations.

Article 2 of the Constitution of the Russian Federation applies to absolutely everyone. This raises the question: what about the criminal element, whose rights are violated? A logical answer arises that this article does not apply to everyone, but only to those people who are responsible for their actions, who care about the well-being of their loved ones, who create for their society and invest their resources in social harmony and development.

One of the distinct constitutional values that require special attention of the state is Russian multi-ethnic society. Attention to maintaining the country's position at different periods of history has no other value, but imposes restrictions on all human resources, often with many victims.

Therefore, the high interconnected value of modern Russia must be considered in the context of a multinational and individual society. It can be argued that individual human rights are constitutional values. This is not the case. Harmonious personality development means full legal capacity and the ability to use all the rights inherent in the civilized citizens of this century. The basic constitutional values are closely related, but not in accordance with the foundations of the constitutional order, since legal constitutions have technical force, they are the values of legal constitutions.

Article 16 of the Constitution of the Russian Federation has a special status. We do not attribute the basic principles of the constitutional system to basic constitutional values. However, we obviously believe that there is no substitute for democracy. However, her model is also not perfect. Only democracy cannot be valuable. Its value system is important only in a society that has reached a certain level of stability and freedom, which ensured the emergence of democracy and the annihilation of followers of a totalitarian dictatorship.

Democracy is possible if the majority of voters are independent citizens who lead a dignified life and do more than just connect the achievements

and preferences of society. Although many democratic principles formally exist in our reality, they have not yet become the value of life. The authorities are responsible for preparing for the socio-economic requirements of progressive development.

Many authors believe that federalism is a constitutional value. We believe that the unitary system is more suitable for Russia, because Russia has the right to provide sufficient autonomy to its subjects. Such a model is useful for areas with special status, as it allows them to build relationships with the center, given their uniqueness. Equality of subjects led to their normalization in Russia.

One of the post-war European values, also adopted by the Constitution of the Russian Federation (Article 7), is the proclamation of Russia as a social state. Today it may not be practical to single out the social characteristics of a country as a private entity. The difficulty lies not in recognizing the obligations of the constitution to those who need social protection, but in the country's economic potential to determine the level of guarantees. For example, all European countries guarantee pensions. However, the payout amount is different.

The social and legal state in the context of constitutional value is not a legal problem, but an economic problem. Currently, there is an increase in the activity of religious associations in public life and government activities. In some cases, it is advisable to resort to a coordinated discussion of the position of the church and the position of a secular state, proclaimed by the Constitution of the Russian Federation (Article 14).

It is absurd to deny the growth of religiously convinced people in recent decades. Atheism for people can be the gospel, because it allows them to more objectively understand the world, following scientific theories. At the same time, a lack of trust among the entire population can lead to disaster. Provided that the Constitution prohibits the state from taking an active part in the development and promotion of its ideology, the formed ideological vacuum can be quickly filled with destructive concepts of the state and traditional social morality.

The existence of the church in the public domain is a completely natural occurrence in a free society. The value of cooperation, and not the separation between the state and religious associations, can be considered constitutional.

This will clearly define the scope of joint actions, shared responsibility and obligations.

The analysis showed that, despite the many years of achievements of many states for the title of "social legal state as a constitutional value," today there is still no single model for the construction and existence of such a state. This, of course, is connected with the autonomy of each state, its individual vision of creating a social state.

Despite this vision, factors such as the level of the country's economy, political regime, the level of development of socio-economic relations, the level of the country's legal policy, the presence of certain norms and traditions of the population play an unconditional role in the formation of a social legal state as a constitutional value.

Results

The results of the study. The analysis showed that, despite the many years of achievements of many states for the title of "socio-legal state as a constitutional value," today there is still no single model for the construction and existence of such a state. This, of course, is connected with the autonomy of each state, its individual vision of creating a social state.

Despite this vision, factors such as the level of the country's economy, political regime, the level of development of socio-economic relations, the level of the country's legal policy, the presence of certain norms and traditions of the population play an unconditional role in shaping the social and legal state as a constitutional value.

Conclusions

The conclusions set forth in the article relate to social and constitutional law and are aimed at improving them both from a theoretical and from a practical point of view. These results can also be used to improve legislation and introduce amendments to it within the framework of defining a socio-legal state as constitutional value.

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