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The procedural side of the rule of law in the observations with anthropological bias

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The subject. The article examines a wide range of issues related to the understanding of the role and importance of legal procedures in their relationship with the rule of law. The authors pay special attention to the current state and trends in the development of legislative, administrative and judicial procedures in the Russian Federation.

The purpose of the article is to assess the impact of legal procedures on the rule of law.

The description of methodology. The authors use methods of complex analysis, synthesis, as well as formal-legal, comparative-legal, research methods in combination with the methodology of anthropological science.

The main results and scope of their application. Reconciling public-imperious decisions, the procedure sometimes governs the behavior of the state itself and keeps it in check, bringing statehood closer to rule of law. The rule of law needs urgently and comprehensively a system of different legal procedures: judicial, public, contractual, arbitration, electoral, referendum, parliamentary, federal, municipal and administrative (fiscal, budgetary, licensing, control, jurisdictional). It would simply not be able to meet its purpose without such procedures, and the idea of the rule of law would remain non-binding. Not every form and fiction performs law-saving work and it's also true for the conditional ability of the authorities to create law and judge law.

Conclusions. Procedures, their combinations are different in origin and in action, but the "non-procedural" legal statehood can not exist. Therefore, procedural violations-encroachments on the judicial, parliamentary, electoral process and other types of processes – are especially dangerous. Legal statehood based on trust is harmed by frequent changes in procedures. The evolutionary capacity of legislative changes is the condition of their viability.

Keywords: rule of law, law enforcement, legal procedures, parliamentary procedure, administrative procedure, litigation.

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1. Legal procedures and the genesis of the rule of law.

Legal state in many contexts accepted to discuss the ideal, and this is apparently distracted and alienated to some extent by the fact that they have to in and do when they speak of "urgent" needs, and talk about the 'real' life. Legal state was announced among the people not a long time ago. To change m of the views ideologically valuable, the ideological environment and social dynamics can be treated as you like, provided, how-

ever, that they are unlikely to remain without consequences for the rule of the State and, and would represent them in only optimistic tone.

Along with permanent growth of administrative and regulatory roots of the rule of law impoverished faith in them, despite the fact that generally the new rules come in right about it and really take root, when n their part time me and not just intent and whether the decision. Ritual and procedure can be solved to impose, but to obey and m will be whereas the behest of the government. To create the same rules by the authorities so that they believe in themselves and rely on them as a right is unlikely. Thus, the Russian jury trial has not gained support and enable the authorities to dispose itself freely available, despite the fact that they introduced the very Constitution of the Russian Federation.

Rule of law is successful, if in the business, political and in everyday life, even prudent people do not consider a waste of money, time and energy to execute the legal procedures do not see in the course of excessive ritualism and feel is the meaning and the need, even forced, reluctantly, sometimes against own benefits. (As V.D. Zorkin rightly observes, if you do not learn to live by the law, you cannot learn to live by the law, you cannot ensure the notorious rule of law (*the rule of law*) [1, p. 28]). Their meaning is usually not considered, poorly spoken or spoken about particulars, as it happens when it comes to fundamental, unconditionally important things. Instead of the main leadership, the procedure will be determined either as a path to truth, not in time, however, faithful, or both with the manual express the national (state) will, and even as a handmaiden to the rational law. But meanwhile, there are some things in it that are closer and more important for the right.

2. The value of different types of legal procedures for the legal state.

Outstanding and own, not added from top aim of the legal procedure process is, in particular, that it humbles and smoothes straightness of vested interests and fair decisions, confuses them, does not let them be simple and without canceling, without imposing ban on them, forces to wait. Of course, the performance of the procedures are not always satisfied, and not all, as, for example, the justification Zasulich jury in court. Procedural conventions and delays do relatively peaceful execution of different intentions - and spun and are valid and unfounded, even criminal and dangerous [2, p. 159].

In return, quick revenge in response to the harm caused and the offense to the legal process furnishes the wages by legal limitations. Instead of spontaneous domination on a sudden occasion, instead open ferocity or transiently mu ecstasy at the free "general will" of the people get power quieter when postpone her investiture and inauguration, waiting periods, to perform a series of agreed and-negative, the electoral procedures and oaths, which complicate, stir and would smooth conquer desire not they will let them spill into something too dangerous at once. (Almost half a century ago, lawyers pointed out that the track in a limited range of policing reasonable range, and necessary response, but not excessive, and extremely diverse on of supervision, eliminating this circle those cases where different departments can themselves, without the assistance of the police, perform duties, and private individuals, in addition to it, directly protect their rights with their own statements and complain [3, p. 35]. And even when filled with rit-

ual leads to disappointment the "injured" party is most often seems to be acceptable and tolerant, as occurs in the visible participation, rather than in the open and flagrant over n her violence. And then to part from procedural victory can partly be put up, because it is not extracted as the opponent's own force, as the force of law, which was at that time on his side [4, p. 19].

Legal procedures in which sinks the excess determination do not dissolve authority or authorities but require respect and divert the portion of submission, but do not deny the authorities. The formula found out by the British as a foundation of "Royal *World»: "no remedies - no rights* " - no rights until and if there is no procedure of defense in court .

To unattractively and faithfully carry out their work, legal procedures do not need to be complicated, it is better if they are simple and if it's easy to depart them. They are important, after all, to be obligatory in the representations and calculations of people. Not coincidentally, Article 47^1 of the Federal Constitutional Law "On the Constitutional Court of the Russian Federation" specifically provides that the Court may resort to a written procedure for the review of cases, i.e., resolve them without the prospect of conducting a hearing only if he comes to the conclusion that there is no need t but someone hearing to ensure the rights of the applicant - citizen or association of citizens. Without the mentioned possibilities with free access to it, and no execution of processual scenario unfolded in its fullness useful ease gradually pick up the main power rules a, and a part of the basic procedures for good then disappear from the market, as happened, for example, with the English jury justice in civil matters (except for a small part of them, and shall show defamation). In the United States, in contrast, the jury gets a small part of the civil cases, but enough to from time to time, ie no legal right to use occurred in the intrigue and important detail, but enough of the attention, from the sound in the civil and professional environment and remains a moose there no honorable oblivion, but in real willingness to come to light, ie objectified shed for the future and for the results of similar cases, allowing, at the same time, pa s resolve them in brief pre-trial transactions and in other simplifications.

The rule of law, to be themselves, and urgently needed throughout the web of different legal procedures (governmental, public, contract, arbitration, ballot, referendum, parliamentary, federal, municipal and administrative (fiscal, budgetary, permissive, control, jurisdictional). Without them, it is about a hundred, etc. will not be able to match the intended purpose, and the idea of the rule of law will remain unnecessary for materialization [5, p. 114].

This applies not only to the judicial, parliamentary, and even to the administrative-cooperative procedures. They, of course, give their side effects in realization and, in particular, add significance first of all to the actions of the management class, and not to the law. They are annoying and often seem superfluous, because they sometimes invent to casually arrogant managerial fantasy and served in administrative innovation, rather than to follow a procedural rituals, where everything is already there and you can take all, if necessary - with reasonable simplifications. Second, over time, more and more governmental people are involved in the procedures in many areas, and together they

begin to attract much attention, time and money. But those occasions are not a reason to dismiss legal procedure that subjects the administration of the rules [6, p. 53-82]. The legal statehood is more suitable than a secluded service and a careful examination of high and small ranks [7-11].

In the rule of law *sui generis* legal decisions, including financial ones, are impossible without public procedures. It is important that no budgetary directives and subsequent decisions could not take place, as well as no expense and extraordinary expenses of the special and funds outside the budget procedures were made possible only in exceptional cases with the inevitable in the annual report of the parliamentary commission.

Parliamentary procedure should be followed, as well as the process in court, observing not only the deputy rights, but also the completeness of rituals. It provides not only durability and freedom of debate how much a measured number of parliamentary readings and appreciable intervals between them. It should be noted on this occasion that not so long ago Ministry of Economic Development of Russia proposed to introduce mandatory requirement, according to which the laws of economic activity could come into effect twice a year (April 1 and October 1) and not earlier than 6 months after the official publishing.

It is clear that such rules promise to significantly reduce the number of new acts of legislation, to delay or make them impossible. The consideration that missed legislative decision not to allow the democratic will take place quickly. Moderation in the number of legislative acts reserves in a person more credibility and attention to these legal acts.

All participants of the legislative process should not forget that the solution is not any legal issues inevitably requires a change of legislative decorations; many of them are successfully solved and in line with the current legal regulation. It is important to remember the stability of law, which is one of the key parameters of rule of law, and first of all the subjects of the public authorities, to practice and executing e of cash legislation. Otherwise, it is extremely difficult to ensure the rule of law, suggesting diligent adherence of legal rules and not their incessant search for defects [12, p. 16-20].

Pacification in legislation can be an important circumstance in the well-being of law. However, on this condition, even if it knowing well be, does not manage itself legislative excited when and if he does not have a melting channel through which it would have found a way to spend a relatively harmless themselves. This condition needs appropriate procedural situation and it could be in harmony, for example, with acts of legislation limited in time of action as it happened, for example, in the Russian legislation on privatization, not to mention the budget, on which the Parliament spend a lot of time and energy to spend again in a year.

Arguing strongly parliaments are not originally designed for publication of legislative acts, but their purpose is the fact that the subjects have agreed to pay the tax, carry duty, letting them control the behavior of the authorities in spending, military, and other decisions, not excluding, however, the legislative. It also gave protection of the rights of individuals and communities. Growing up with new powers, it is harmful for parliament to do so for detriment of the first and main activities. Laborer G. Laski then argued that

"the parliamentary machine is absolutely not suitable for the rapid consideration of a large number of bills" [13, p. 149]. For the demise of Parliament this is not enough, but enough for unpleasant symptoms with a hint of legislative moderation.

With them, the statute remains only an act of power that will not be revoked if they change their minds, as opposed to the right that the creatures have and continues even without acts, so long as it is recognized in a treaty, in court, in a real right of claim, executed commitment or prohibition [14-21].

3. Consequences of violations of the legal procedure.

Personal judicial goodwill and charity do not necessarily show for someone else's procedural account and at the expense of the law, refusing to use it out of good motivation. Nobody, including judges, is not forbidden for private philanthropy, and social protection and assistance is sometimes also available to victims of the law. The judge can with their money to help the loser in a clumsier at de if it and really hot he sympathizes. But swearing to the law, the judge will change the oath, if the personal conscience is put above the law and personally on my own will, as well as forgive parties that should be according to the law just for their procedural consequences.

Rule of law should increase procedural security, not excluding the limitations of litigation (the regular abuse of the right to a court) or the rules of estoppel. Then the court may appear to be comparing be assess their and judgment to specific circumstances, behavior of claimants, and other individuals [22, p. 5-9].

4. Value of changes of legal procedures for legal state.

Legal statehood keeps faith, which is unlikely to be useful for e mobility of the right, as well as signs based communities, delivered right to the service, from political and administrative authorities. Legal state and its law is not gut harmlessly currently allow open celebration VLAST it over the right and allow them to rejoice in the legislative achievements. He cannot be on the t start transforming your device will "legal bases" and with the expectation of social engineering with its "mechanism s regulation "with clearing".

Meanwhile, in the Russian State Duma, even a law on constitutional and on-the-ground amendment of incredible importance with complex and unclear consequences for the judiciary can , if necessary, "hold" in five minutes in two readings at once. Such speed would be the rule of law almost Prigov of rum, whenever the Constitutional Court do not form conductive l attention to it , I , insisting that the legislative haste exposes PARL and Parliamentary power and a threat to society. Quite a jar but he spoke on this subject, for example, Judgment of 14 February 2013 № 4-P, which implies that the violation of parliamentary procedures, whatever its called and explained and, not lzya perceive to be compatible with the rules of legislative activities, directly established by the Regulations of the State Duma; it cannot be accepted well but acceptable, even if the will of the parliamentary majority, expressed in the forward and federal law likely would have received a confirmation and with about the observance of procedural re-

quirements of the Russian Constitution and the regulations of the state in the gifted Duma; change as facials urnogo order lawmaking Bezout with lo implicitly assumes pre- e adoption of relevant about solutions .

It remains, however, unclear whether in a state deputy in the final his presence under the refrain in. Statistics legislative work does not seem quite lets us speak in this sense of well-being and general legal national statehood of the STI. The Constitutional Court of Russia, not having sufficient grounds argue that the execution of the rules of parliamentary procedure in their systems but th completeness and consistency is a prescriptive algorithm Dep in Lenia legislative authority in the framework of the Russian constitutional system.

It is impossible, of course, to completely immobilize the law, but a quick change of rules will disbelieve in their strength and prevent them from relying. The condition for the consistency of legislative changes is their evolutionary gradualness. In addition to performing the procedures, it is important to avoid a continuous change first, and at least for the kind of issue for private improvements and nonessential amendments, even when they meant and interfere with the existing rules, forms and institutions. By touching on their content, it is useful to leave them at least the old form, their general structure, and about a series in procedures, formalities and institutions in the general belief that this does not affect their content and substance. We are not so much known before the advent of the rule of law ideas as to update themselves, staying to the right in the attachment and not daring to rough it to intervene or to renounce the old law, even when it is longer unable to act. They relied in this case on a fiction to maintain the appearance of legal antiquities in the ritual to her respect, and new rules for the new situation put into circulation quickly, allowing them to operate in outdated inviolable for max and there beside them. Fictions and dilapidation crowded Roman, English law, and, leaving the last, say, an old legislative process or in debut duel, they were kept for a long time conditionally. In order not to call into question the possessory rights in England taxes attributed not the taking of property by e data, they agreed to transfer to the part of his property, and held that the fiction that the free Englishman, if present in the Parliament gives its consent and the most makes the decisions made for oneself compulsory. In continental Europe, the domination of the kings of the subjects taken out in an hour so of the rights of parental authority is not designed for this, of course, and the rights of liege suzerain-property recovered the right to levy taxes.

5. Conclusion.

In conclusion, the only note that loyalty to the procedures and forms, as well as obedience to the rules instead of straight paths and quick solutions bring movement of life in the not the most comfortable position and impose annoying stops, that is clearly a present, from time to time and in part, inhibiting the social circumstance.

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