

ON THE ROLE OF SOCIAL CHOICE, THE CHALLENGES OF IMPLEMENTING THE TREATY ON THE ESTABLISHMENT OF UNITED RUSSIAN-BELARUSIAN STATE OF DECEMBER 8, 1999 AND THE INTEGRATION CONSTITUTIONALISM

Sergey N. Baburin^{1,2}

¹ *Institute of State and Law of the Russian Academy of Sciences, Moscow, Russia*

² *Dostoevsky Omsk State University, Omsk, Russia*

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The article reproduces the speech of Sergey N. Baburin at the plenary session of the international scientific conference "Law Enforcement in Public and Private Law", which was held on March 26, 2021 at the Faculty of Law of the Dostoevsky Omsk State University. The conference was dedicated to the 200th anniversary of the birth of Fedor M. Dostoevsky. On the example of the law enforcement of the norms of the Treaty on the Creation of the Union Russian-Belarusian State of 1999 the speaker examines the issues of modern social choice in the development of mankind. Civilizm is proposed as a new social system, and the characteristics of its constitutionalism, political system, and justice system are described. The author argues for the necessity of establishing a moral state and creating a union state with the participation of Russia by using the mechanisms of integration constitutionalism.

I will start with the words of the great Russian writer F. M. Dostoevsky, from his novel "The Brothers Karamazov": "Let us, first and foremost, be kind, then honest, and then we will never forget about each other." The hierarchy of virtues according to Dostoevsky is simple: kindness, honor, solidarity and mutual assistance. These are virtues that should be the life principles of the society in which we live. It was on these foundations that the Russian civilization was built and polished.

The 200th anniversary of the birth of Fyodor Dostoevsky gives us a reason to slow down on the turns of history and rethink a lot about ourselves and the world. The author of "The Karamazov Brothers", "Crime and Punishment", "Demons", "Idiot" was too versatile and insightful. What are the images of the same Alexander Goryanchikov from "Notes from the Dead House" or his companion in misfortune Akim Akimych, a man, as the author writes, extremely pedantic and foolishly well-behaved, worth for today's time. Isn't the Russian society now playing the role of the latter? The works of the great Russian writer are exceptionally rich in folk types and characters, filled with reflections on ideals. The people's ideals are now in question.

The worldview of F. M. Dostoevsky did not accidentally pass the path of its spiritual development from the views of a Christian socialist-utopian to religious conservatism. Today, more than ever before, we feel the need to understand how compatible the Orthodox foundations of the life of the majority of the peoples of Russia and their socialist experience are.

The society is looking for an opportunity to harmoniously combine the traditional spiritual and moral values of the people (in Russian society, this is the Orthodox religious and moral core) with the social values and social conquests of the Soviet Union period. It is no accident that the classical scheme of public administration involves an algorithmized chain: the definition of values – the promotion of goals – the identification of problems and their solution – the achievement of results [1, p. 17]. Without God in the soul and the Motherland in the heart, the Russian man is not conceivable. As rightly emphasized by S. A. Avakian, "religious faith became not only a

manifestation of worship of the Almighty, it contributed to the formation of foundations, canons of behavior, i.e., what everyone needs" [2, p. 23]. No modern state can exist without its religious spiritual and moral core. Otherwise, it is doomed to disappear.

The unprecedented complication and acceleration of literally all social processes with the increase in their spontaneity and unmanageability, the rapid emergence of many new global problems that pose a threat to the very existence of man in the spiritual and biological sense, require a rethinking of the role of the state and law [3, p. 61-78; 4], the acquisition of a new social quality by the state.

The situation with modern law enforcement as nothing more demonstrates the systemic crisis of humanity in the absence of a high goal of social development. The main reason for aggressive legal nihilism and persistent legal idealism – the loss of spiritual and moral guidelines by society, leading to the degradation of the state, the paralysis of the law, and the profanation of legislation-can be seen in the laws adopted but not applied, in the legally formed mutual obligations and their mutual non-fulfillment, in the growing gap between law and law.

From the swamp of today's Russian criminalism, it is necessary to get out to a new social system that can realize the social ideals of the people. The new formation must also have a new name. And such a name can be a CIVILIZATION.

The idea of civilizm was born in the 90s of the twentieth century in the bowels of the Institute of State and Law of the Russian Academy of Sciences [5, p. 236-349; 6, p. 400-430], but has not yet met with understanding and support among social scientists. Meanwhile, it is civilizm (from Latin civilis-worthy of a citizen; civil) that can be modeled as a social system that presupposes a moral state and a just society. Civilizm as the only social system worthy of a citizen has characteristic features:

- 1) public property, when every citizen freely and regularly receives his share of income from natural resources and the use of state property;

- 2) a political system based on national cultural and historical traditions, assuming for the Russian Federation, for example, conciliar decisions at the highest state level and a restored system of Soviets as organs of people's power

[7, p. 111-121], formed over the centuries in self-government;

3) constitutionally established popular control over public power;

4) the system of spiritual and moral control over politics, the state and law;

5) justice based on the election of judges by the people (the requirement of judicial justice is one of the main requirements of modern Russian society) [8, p. 14-15];

6) the system of public security, including the zemstvo (municipal) militia with an elected official at the head.

Civilism is not a claim to some newly invented artificial ideological dogma, but a creative understanding of our ideas about society, the result of the development of modern knowledge about the state, society and man. Civilization is universal, but in each particular case it will have national characteristics inherent in the spiritual life and historical path of formation of each nation.

Civilization can only be formed simultaneously with the strengthening of the moral characteristics of the state, it needs a moral state. The moral state should be understood as the state of virtue, embodied in the constitutionally fixed spiritual, moral and social self-organization of society [5]. The moral state acts as a spiritually unified, just, legal and social state that ensures harmony between justice and freedom.

The role of national cultures in the civilizational choice is crucial. Russian Russian Russian approach presupposes the self-development of the Russian community as a civilizational union of Slavic, Finno-Ugric, Turkic, Caucasian and other peoples, cemented by the Russian language and Orthodoxy. The Orthodox core also implies a respectful attitude towards the Abrahamic religions and their followers. If for the West the idea of development consists in changing the external world to suit a person and his interests, for the East - in the internal transformation of the person himself with indifference to the state of the external world, then Russia has managed to give the idea of the transformation of a person the character of a social project. For many centuries, the Russian way has been to socialize the idea of spiritual transformation, to transform individual

transformation into social transformation. The whole of humanity should and can be transformed, and not a single hermit who has escaped from the world [1, p. 206-208]. In the West, the very idea of transformation is absent, hence the materialistic nature of Western civilization and the imperative of domination over nature and other peoples.

For Russia as a "middle" civilization, it is fundamentally significant that Christianity as an absolute system of values, which has in its orientation spiritual freedom and moral improvement of the person and society, cannot be "replaced" by some analog, where the liberal legal consciousness introduces the rational idea of law [9, p. 113]. Both private property and political rights, these symbols of the ideology of liberalism, have different moral parameters in Russian culture than in Europe.

It is clear about spiritual values, civilizational features and cultural and historical goals, but what ways and ways to go to achieve them? The first question in constructing a new state will be the question of its elements. If the government is clear, then what kind of people are we talking about? What territory as a shell of the state do we mean? To collect historical Russia, it is necessary to understand the problems of reintegration, the necessity and importance of integration constitutionalism.

Integration constitutionalism is not a simple cooperation or legal improvement of interstate cooperation [10]. Integration constitutionalism at a certain stage of the internationalization of constitutional law transforms interstate relations in the presence of political and social consent into a joint constitutionalism aimed at creating a common union (federal) state [11, p. 118-185]. An example of this is the Treaty on the Establishment of the Union State of December 8, 1999 between the Republic of Belarus and the Russian Federation. But it is precisely on the example of this Treaty that the political and legal result of the lack of conscious values and social goals is clearly visible.

20 years have passed, but the Union of the Russian-Belarusian state did not exist, and still does not exist. We are convinced that it is not enough to declare high intentions, it is necessary to make concrete practical efforts to achieve them. The actual practice of law enforcement of the Treaty norms

indicates the lack of development of the planned integration constitutionalism.

Just a few examples.

Thus, article 17 of the Treaty contains a list of issues that fall under the exclusive jurisdiction of the Union State. These are the creation of a single economic space and the legal basis of a common market; a single monetary, currency, tax and price policy; common rules of competition and consumer protection; unified transport and energy systems; the development and placement of a joint defense order, ensuring on its basis the supply and sale of weapons and military equipment, a unified system of technical support for the armed forces of the participating states; common trade and customs tariff policy in relation to third countries, international organizations and associations, and so on.

Laws, decrees, resolutions and resolutions are adopted on the subjects of the exclusive jurisdiction of the Union State (Article 59 of the Treaty). Laws and decrees are intended for general application, are binding in all parts and, after their official publication, are directly applicable in the territory of each State Party (Article 60)..

The Treaty establishes that in the event of a conflict between a norm of the law or decree of the Union State and a norm of the internal law of the State party, the norm of the law or decree of the Union State shall prevail. This provision does not apply only to the conflict between the norms of the law or decree of the Union State and the norms contained in the constitutions and constitutional acts of the member States. The regulations are binding in all their parts on the State, individual or legal entity to which they are addressed. The directives are binding on each State to which they are addressed, while the authorities of the State concerned retain the freedom to choose the forms and methods of action.

Unfortunately, for 20 years of the existence of the Treaty on the Creation of the Union State, there is not a single case of the implementation of these norms. It is impossible to consider as such the approval of the budget of the Union State, which consists in the revenue part of the voluntary budget contributions of the two participating states, and in the expenditure part - from bilateral private socio-

economic projects (union programs).

The legal and political conclusion for the future is simple: either we must reduce historical Russia to the Russian Federation and continue to work on its development, or it is time to develop and adopt a Constitutional Act of the Union State, which would unite the interests of the peoples of not only the Russian Federation and Belarus, but also other states of the post-Soviet space. The integration constitutionalism of the post-Soviet space remains a real social phenomenon and requires its implementation.

Of course, over the past four decades, the Soviet and then post-Soviet space has gained a new socio-political experience, including not only the integration potential, but also the potential for national isolation, civilizational stratification and degradation. Within the society of any of the post-Soviet states, diametrically opposite trends of development have developed, self-developing national political elites have formed, sometimes short-sightedly ignoring the mood and standard of living of the majority of the population.

Forecasts of the bankruptcy of liberal-Westernized values in the Russian Federation and their replacement with the values of social-corporate solidarity and statehood are coming true. As the forecasts of the increasing influence of the Internet and online media on people and public opinion in comparison with television and the print press have already come true [12, p. 180, 182]. The world is changing, unfortunately, in many ways moving from stable development to chaos of uncertainty. This applies both to international relations and to the situation within nation-States.

The growing sense of the pre-revolutionary nature of modern Russia does not accidentally force researchers to comprehend not only the experience of past revolutions [13], but also what the revolutions did not change, referring to the latter transformation and immutability of political culture, mentality, and political identity. The existentialism of self-knowledge is now accompanied by imperative pragmatic forecasting [14, p. 4-5]. This process is superimposed on the painful emergence of a global civil society from the virtual world, which involves the transfer of relations between people from the level of national states to the level of interaction

with interethnic and supranational institutions [15, p. 578].

Hence the social significance of the analysis of both the practice of law enforcement in the legal systems of the states of the post-Soviet space, and the experience of realizing the potential of integration constitutionalism in the post-Soviet space. The inevitability of civilizational decisions and political transformations is maturing in the public consciousness.

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INFORMATION ABOUT AUTHOR

Sergey N. Baburin – Doctor of Law, Professor, Honoured Lawyer of the Russian Federation, Professor of the Moscow Witte University; ¹Head Researcher; ²Professor
¹ *Institute of State and Law of the Russian Academy of Sciences*
² *Dostoevsky Omsk State University*
¹ 10, Znamenka ul., Moscow, 119019, Russia
² 55a, Mira pr., Omsk, 644077, Russia E-mail: 1357343@mail.ru
ORCID: 0000-0002-2213-0127
RSCI SPIN-code: 1212-8135; AuthorID: 790520

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