

IMPROVEMENT OF THE CONSTITUTIONAL MECHANISM FOR THE PROTECTION OF CONSTITUTIONALISM IN RUSSIA

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The subject. The article names the conflict situations that have developed in the Russian Federation that threaten Russian constitutionalism, searches for ways to resolve them, and outlines measures to improve the constitutional and legal protection of the constitutional system and the territorial integrity of our state.

The purpose of this article is to identify threats to constitutionalism in the Russian Federation from the point of view of the ethno-political and historical development of Russia as well as to identify conflict situations that generate these threats.

The methodology. Dialectical method, systematic approach and system analysis, formal-dogmatic, logical-legal, comparative-legal, concrete-historical and sociological methods were used.

The main results, scope of application. The article indicates the impact on Russia of the negative processes that led to mass riots in foreign countries, and the conflict situations caused by them. When destabilizing public relations in Russia, one of the first places is occupied by inciting hostility on the basis of national relations, first of all, inciting an aggressive minority against a state-forming ethnic group. Grievances and disagreements that took place in the historical past, as well as contradictions of an interfaith and intercultural nature are used as reasons.

The article makes proposals for the prevention, suppression and elimination of negative processes and conflict situations aimed at strengthening Russian constitutionalism.

They are reduced not only to strict compliance with the existing constitutional and sectoral norms; elimination of contradictions in the Constitution, as well as the specification of constitutional norms by sectoral rules; timeliness, proportionality and inevitability of state coercion measures applied to offenders. Restoration and accelerated development of sectors

of the national economy destroyed during the perestroika; increasing the number of jobs with decent wages; employment of citizens of the Russian Federation first of all; comprehensive expansion of the network of professional training in industrial and technical specialties are among the important measures to protect constitutionalism.

1. Introduction to the problem

In Russian state studies, the problems of constitutionalism have been studied most seriously and deeply since the beginning of the twentieth century. At that time, significant and decisive steps were taken in developing the constitutional foundations of the representative system, the status and inviolability of the individual, territorial and administrative structure, national, agrarian and land issues, the relationship of the state, the church and the individual, the judicial system and judicial proceedings, local self-government. There were even attempts to develop alternative drafts of the Constitution of Russia [1; 2; 3; 4]. Continuing the traditions and developing the experience of Z.D. Avalov, V.V. Vodovozov, V.M. Gessen, M.B. Gorenberg, A.D. Gradovsky, A.K. Dzhivelegov, N.I. Kareev, N.M. Korkunov, S.A. Kotlyarevsky, N.I. Lazarevsky, M.N. Pokrovsky, M.A. Reisner, L.V. Shalland and their associates, modern Russian scientists also pay great attention to constitutionalism. [5; 6; 7; 8; 9; 10; 11; 12; 13; 14; 15; 16; 17; 18; 19; 20; 21]. The results of their research make a significant contribution to the domestic constitutional and legal science. Their practical implementation can have a positive impact on the development of the state-forming and other indigenous ethnic communities of Russia, strengthening social peace and political harmony.

However, the current situation in the Russian Federation and other countries cannot but cause concern. In the United States of America and European States, which are often seen as a model of real constitutionalism, a wave of mass riots has swept through, accompanied by insubordination of the authorities, opposition to the forces of law and order, their discrediting, pogroms, outbreaks of racism, humiliation of human dignity, destruction of historical monuments, the creation of illegal armed groups.

In this regard, it seems appropriate to identify the threats of constitutionalism in the Russian Federation from the point of view of the ethnopolitical and historical development of Russia, as well as to identify conflict situations that generate these threats.

2. The main negative processes in Russia.

A comparison of foreign and domestic negative processes reveals their similarity. The main and main reason for the unrest is the unresolved socio-economic problems. In Russia, this is the ongoing crisis of industrial and agricultural production, the fall of the ruble, the uneven economic and financial development of the metropolitan regions and the periphery, which led to a confrontation between the center and the outskirts and a sharp decline in the welfare of the majority of the population. The situation is significantly aggravated by the COVID-19 coronavirus pandemic, which has caused serious damage to the economy and social sphere of all States.

Both in Russia and in foreign countries, anti-government protests are the actions of an aggressive cohesive minority against the state as a whole or the majority of its population. If the majority is amorphous and fragmented, an organized minority is able to realize its goals much more successfully [22; 23].

In the USA, such actions take place under the guise of confrontations between the so-called African-American minority and the majority with fair skin. In Europe, in place of African Americans are foreign workers from the countries of the Afro-Asian region, as well as the population of former European colonies on other continents¹.

Although the number of such anomalies in Russia is negligible, and their aggressiveness is much less (which is also recognized abroad)², their very

¹ Labutina D. "Painful episode": the King of Belgium apologized for colonization

The Belgian authorities apologized for the colonization of the Congo for the first time. https://www.gazeta.ru/lifestyle/style/2020/06/a_13136209.shtml (accessed 30.06. 2020).

² BBC (UK): racism in Russia - stories about bias. https://inosmi.ru/politic/20200620/247640282.html?utm_referrer=https%3A%2F%2Fzen.yandex.com (accessed 20.06.2020).

presence in our state cannot but be alarming³. Moreover, the main issue of democracy is precisely to achieve an optimal balance of the rights and freedoms of the minority with the interests and legal capabilities of the majority.

Sharp criticism of these amendments is the leading direction of a unified anti - Russian attack by our geopolitical opponents. It manifests itself not only in the support of separatist sentiments, in the introduction of the idea infringement of the state-forming people⁴. The apotheosis of counteraction is the preparation and conduct of terrorist acts in Russia with the participation of the Islamic State organization banned in Russia. According to a report by FSB Director Alexander Bortnikov, almost 150 terrorist acts have been prevented in the Russian Federation over the past decade.

Anti-Russian and anti-Russian hysteria is persistently being whipped up abroad, in particular, in Turkey and the United States⁵. Moreover, anti-

Russian and anti-Russian speeches are often expressed to the detriment of historical truth [24; 25].

According to experts, in provocations on the territory of Russia, the professional organizing role of foreign forces in their conduct is obvious⁶.

3. Constitutional assessment of contradictions and countering threats.

We believe that in the conditions of a multinational and multi-confessional Russian Federation, making claims against a state-forming ethnic group is stupid and impractical. Moreover, inciting ethnic and interreligious hostility not only on the basis of long-standing historical grievances, but also on any other occasion, within the framework of one state directly contradicts Russian laws. Part 5 of Article 13 and part 2 of Article 29 prohibit activities, propaganda and agitation that incite and incite social, racial, national, religious, linguistic hatred, discord and superiority. Such activity and related violations of human and citizen rights, freedoms, and legitimate interests fuel separatism and, in the end, encroach on the territorial integrity of Russia.

All this contradicts Article 45 of the Constitution of the Russian Federation, which guarantees state protection and self-defense of human and civil rights. It is also incompatible with Part 2.1 of Article 67 of the Constitution, specifically aimed at protecting the sovereignty and territorial integrity of Russia. The current version of Federal

³ The Federation of Migrants condemned a Muscovite who called for kneeling in front of migrants. https://www.gazeta.ru/social/news/2020/07/24/n_14712403.shtml (date of address: 07/24/2020); Sidorchik A. The echo of Kondopoga. How did the loud conflicts on national grounds end? https://aif.ru/politics/russia/eho_kondopogi_chem_zakonchilis_gromkie_konflikty_na_nacionalnoy_pochve (date of appeal : 17.07.2019); 300 workers staged a pogrom at the Amur plant of Gazprom. https://www.rbc.ru/society/13/07/2020/5f0c55d49a79475f36cce982?utm_referrer=https%3A%2F%2Fzen.yandex.com (accessed: 13.07.2020).

⁴Who will bring the Russians to their knees and expel them from Russia.- URL: <https://zen.yandex.ru/media/rosgod/kto-postavit-russkih-na-koleni-i-vygonit-iz-rossii-5f2cc8f5d9fafc42fbc896ca> (accessed: 07.08.2020).

⁵ Abkhazia approved the demolition of a monument to the Russian conquerors of the Caucasus in Sochi. https://easaily.com/ru/news/2020/07/12/v-abhazii-odobrili-snos-v-sochi-pamyatnika-russkim-pokoritelyam-kavkaza?utm_referrer=https%3A%2F%2Fzen.yandex.com (accessed: 12.07. 2020); . Ivanova E. In the skirmishes of Armenians and Azerbaijanis in Russia, they saw a Turkish trace. <https://tehnovar.ru/163204-V-stychkah-armyan-i-azerbaydzhancev-v-Rossii-uvideli-tureckiy-sled.html> (date of application:25.07.2020); Akopov P. The war with monuments will not be exported from the

USA to Russia. <https://ria.ru/20200725/1574884563.html> (accessed: 25.07.2020); Gulevich V. About the demolition of the monument to the first governor of Russian Alaska Alexander Baranov/V. Gulevich.- URL: <https://www.fondsk.ru/news/2020/07/20/o-snose-pamyatnika-pervomu-gubernatoru-russkoj-aljaski-aleksandru-baranovu-51414.ht> (date of appeal: 20.07. 2020); Gridina M. Erdogan believes that Crimea should be returned to Turkey. <https://yandex.ru/turbo/fedpress.ru/s/news/91/policy/2608212> (accessed: 10/27/2020).

⁶ The Prosecutor General of the Russian Federation announced the financing of the Russian opposition from abroad through "Open Russia". *Nastoyashee vremya*. June 7, 2017. <https://www.currenttime.tv/a/28533485.html> (accessed: 07/25/2020).

Law No. 114-FZ of July 25, 2002 "On Countering Extremist Activity" classifies such actions as extremism. State-legal, administrative-legal, criminal-legal responsibility is provided for them. It is strictly individual, not collective.

By the way, the content of Part 2.1 of Article 67 of the Constitution of the Russian Federation requires additional comments both in editorial and substantive aspects. The first sentence of this rule almost completely repeats the content of Part 3 of Article 4 of the Constitution, with the only difference that Article 67 refers to territorial integrity, and Article 4 refers to territorial integrity. There is no fundamental semantic difference between the two formulations given. Their tautology is explained by nothing other than the unsatisfactory wording of the text, which is quite understandable, because some members of the working group themselves admitted that they had never read the Constitution⁷.

Another contradiction is contained within the second sentence of Part 2.1 of Article 67, which, on the one hand, does not allow actions aimed at alienating part of the territory of the Russian Federation, as well as calls for such actions. On the other hand, an exception to this prohibition is the delimitation (and subsequent demarcation and redemarkation) of the state border of the Russian Federation with neighboring States.

It was this circumstance that caused the bewilderment of the public. In both constitutional and international law, the term "border delimitation" means the establishment or determination of the general position and direction of the State border between neighboring States through negotiations. This procedure may eventually lead not only to increment, but also to alienation of the Russian territory, which has happened more than once in the past. The most recent is the transfer of 70% of the area of Lake Sweet to Kazakhstan in 2017, and the receipt in May 2013 by Azerbaijan of about 30 square meters

cut off from low-land Dagestan. km of fertile alpine meadows, which resulted in violation of the rights of the population living there.

In 2005, on the basis of delimitation and demarcation, Russia transferred Tarabarova Island to China, part of Bolshoy Ussuriysky Island on the Amur River in the Khabarovsk Territory, and half of Bolshoy Island on the Argun River in the Chita Region, with a total area of 338 km². For the same reasons, in 2010, 80 thousand square kilometers of marine territories with the richest natural resources in the Barents Sea and the Arctic Ocean were transferred to Norway in 2010. Such "acts of generosity" were carried out before the adoption of the Constitution of Russia in 1993 and even in Soviet times, when there was no reservation about delimitation in the basic laws of our state. Now the appearance of such a clause in the Russian Constitution has prompted the public to fear that the transfer of disputed territories to foreign neighboring states on its basis may become the rule [26]. Moreover, there are applicants for such territories, in addition to Japan with its claims to the Kuril Islands, and if you're lucky, then half of Sakhalin Island, more than enough.

Therefore, in pursuance of Articles 4 and 67, as well as internal contradictions in the content of Article 67 of the Constitution of the Russian Federation, it is advisable to legislate the permissible territorial limits of delimitation, i.e. the maximum permissible area of Russian territory that can be alienated from Russia through this procedure. For these purposes, it is possible to adopt the Federal Law "On the Delimitation, Demarcation and Redemarkation of the State Border of the Russian Federation" or supplement the current version of the Law of the Russian Federation of 01.04.1993 No. 4730-1 "On the State Border of the Russian Federation" with appropriate articles.

It is not necessary to impose a sense of historical guilt on Russians⁸, this can also give rise to the reverse process, counter-claims based on historical facts, which will create a threat to

⁷ The members of the working group on amendments to the Constitution have not read it.

<https://politsturm.com/chleny-rabochej-gruppy-po-popravkam-v-konstituciyu-ee-ne-chitali/> (accessed: 15.02. 2020).

⁸ Krasovskaya N.R. Why are they telling us: "It's a shame to be Russian".

https://yandex.ru/turbo?text=http%3A%2F%2Fsibkrai.ru%2Fnews%2F2126%2F929463%2F&promo=navbar&utm_referrer=https%3A%2F%2Fzen.yandex.com (accessed: 19.12.2019)

international peace and harmony in the state..

However, Russians are a state-forming ethnic group and do not accept the incitement and escalation of ethnic hatred. They remember everyone, regardless of nationality and religious affiliation, who put their efforts, health and life in the name of Russia for the common good, preferring not to remember former grievances. But peacefulness is not a reason to tolerate insults from aggressive nationalists, who, like street hooligans, perceive the lack of resistance as weakness and, believing in their own invincibility, continue to attack the victim.

The authorities must take immediate measures to ensure the implementation of Part I of Article 68 of the Constitution of the Russian Federation in terms of protecting not only the union of equal peoples, but also Russians as a state-forming ethnic group and the basis of this union. The dismantling of monuments and other historical and cultural objects is a deliberate insult to Russian citizens, inciting ethnic hatred against the state-forming and other peoples of Russia. Destroyed monuments should be immediately restored at the expense of those who demolished them, and from now on monuments should be erected only to those historical figures and events that are associated with the progressive development of Russia, the strengthening and strengthening of its power and authority.

The memory of destructive activity and the personalities who carried it out should not be perpetuated. In no case can such activity itself serve as a basis for bringing charges against the peoples to which the people who carried it out belong.

Unfortunately, sometimes the hostility towards immigrants from the former republics of the USSR is caused by their illegal actions and violations of the moral norms accepted by Russians and other indigenous Russian ethnic groups. Therefore, it is necessary to strengthen the control of the behavior of refugees and foreign workers in Russia, to prevent and prevent their violation of Russian laws. Part 3 of Article 62 of the Constitution of the Russian Federation, Article 4 of the Federal Law of July 25, 2002. No. 115-FZ "On the Legal Status of Foreign Citizens in the Russian

Federation" establishes that foreign citizens in the Russian Federation bear duties on an equal basis with citizens of the Russian Federation, with the exception of cases provided for by federal law. The basic and universal obligation established by Article 15 of the Constitution – compliance with the Constitution of the Russian Federation and laws is not subject to any exceptions.

It seems that it would not be superfluous to supplement the aforementioned Federal Law No. 115-FZ with a rule obliging foreigners to respect the customs and traditions of the Russian and other indigenous Russian peoples, not to oppose their understanding of these values to them. Such a novel can be explained not only by the normative characteristic of Russians as the state-forming people of Russia (Part 1 of Article 68 of the Constitution), but also indirectly by the fact that Part 1 of Article 131 of the Constitution of the Russian Federation allows the use of historical and other local traditions as a source of law.

State enforcement measures applied to violators must be tough and unavoidable. Thus, the clashes between the Azerbaijani and Armenian diasporas stopped after the intervention of the FSB authorities, who warned their representatives, detained more than 30 people and opened criminal cases against the perpetrators. The business circles of both communities expressed their willingness to mutually compensate for the damage caused, and some even from personal funds⁹.

If the state does not ensure proper order and control of the behavior of foreigners on the territory of Russia, the mechanism of self-regulation and self-defense will naturally come into effect in society, and citizens will begin to influence this category of offenders on their own. Similar cases already take place not only in foreign countries (in Denmark, for example), but also in the Russian Federation itself.

Every conflict, and interethnic conflict is no exception, has economic reasons. The low level of

⁹ Instant reassurance of Armenians and Azerbaijanis after the representatives of diasporas were summoned to the FSB.

<https://zen.yandex.ru/media/obetonnegovoryat/momentalnoe-uspokoenie-armian-i-azerbaidjancev-posle-vyzovav-fsb-predstavitelei-diaspor-5f1d28ceb65d2250abdc91d5> (accessed: 26.07. 2020).

well-being of the population is aggravated by the fact that during the pandemic and self-isolation, a large number of people employed, primarily in the non-productive sphere, failed to save jobs, having lost remuneration for work. For them, participation in paid political mass public events is at least some kind of source of material support, or a kind of "surcharge" over the basic earnings. In particular, such a method of attracting not only Khabarovsk residents to the ranks of Khabarovsk demonstrators, but also residents of other localities to play the role of "discontented people" for a bribe is increasingly being talked about in social networks with the presentation of evidence¹⁰.

Moreover, among the participants of the American riots there were mainly people who were not engaged in productive work, but who existed on various benefits and social benefits. This circumstance once again clearly demonstrates that compensations and benefits alone, as an attempt to smooth out social contradictions, do not eliminate the danger of confrontations and conflicts.

Such a negative conclusion is natural. Society is an integral social system, and the sustainable progressive development of any such organism is possible only on the condition that its elements will not only consume what the system gives them, but also, in turn, contribute to system-wide development. This is one of the laws of cybernetics. Therefore, people should not live solely at the expense of the exploitation of the welfare state, but, above all, directly engaged in productive activities. If a person does not work, he gets used to exist at the expense of others, becoming a carrier of dependent psychology, a stable aversion to productive work. In other words, the individual becomes an antisocial element, opposes himself to the system. In order to avoid disintegration, the system should correct the

behavior of the subject as soon as possible by subjecting him to the established measures of influence. All this confirms the ancient wisdom: "do not give a hungry fish, but give a fishing rod and teach him to fish."

Given the current situation, the extensive compensation program announced and implemented by the Russian authorities is insufficient in itself. Along with compensations, the authorities should increase the number of jobs with decent wages, attracting, first of all, citizens of the Russian Federation to them. The involvement of foreign labor is permissible only in the absence of holders of the relevant profession and qualifications from among Russian citizens.

At the same time, it is necessary to expand the network of vocational training in industrial and technical specialties in every possible way, since personnel are needed for the revival of production industries, the training and replenishment of the reserve of which has practically ceased over the past years of the crisis.

Another task is to force the population to undergo vocational training (retraining) and work. It is preferable for many to "sit" on the dole than to engage in productive work every day. On the so-called "remote" it is permissible to perform advisory functions, for example, in accounting and law, but it is impossible to be a turner, a milling cutter, a cutter, an engineer, a car driver or a pilot. Because of this, it is necessary to adjust the norm on freedom of labor, eliminating its liberal semantic interpretation.

It is necessary to restore the understanding of this rule in the dialectical and philosophical aspect as a conscious necessity, with the prospect of restoring the constitutional obligation to work - a necessary legal condition for the sustainable development of society as an integral social system. I think this will contribute to the creation of a basis for the implementation of the provisions of Part 1 of Article 75.1 of the Constitution of the Russian Federation on ensuring a balance of rights and duties of a citizen, economic, political and social solidarity.

The training and skillful use of qualified personnel will effectively solve the socio-economic problems of Russia and its regions, eliminate the crisis of industrial and agricultural production. It is necessary to really restore previously stopped or

¹⁰ Found guilty of rallies in Хабаровске.-

URL:<http://zen.yandex.ru/media/id/5c5a85ccede5ad00ae7f59c9/naideny-vinovnye-v-mitingah-v-habarovske-5f1aacee646ba2315c589fa1>. (accessed: 24.07. 2020); Belarus. Performers and customers. Versions.-URL: <https://zen.yandex.ru/media/akozmin/belarus-ispolniteli-i-zakazchiki-versii-5f32c72a6b080f7a4dbb7b4e> (accessed: 12.08.2020).

dismantled enterprises as soon as possible, taking into account new modern equipment and technologies. To reform the tax system of the state in order, firstly, to increase the share of funds collected at the level of subjects, which remains in the subjects themselves and is spent on regional needs. Secondly, tax deductions from enterprises should be directed not only to the budgets of the regions at the place of their registration, but also at the location of production facilities.

In order to make the system of medical care of the population really accessible and of high quality, as required by paragraph "g" of Part 1 of Article 72 of the Constitution, it is necessary to adjust the system of financial support for healthcare by transferring medical institutions from the system of compulsory medical insurance to their direct state funding. The successful solution of youth and personnel policy issues requires strengthening the material, technical and financial base of education, expanding the budget sector of higher professional education.

An important task is financial and economic support for the development of the traditional culture of the state-forming and other equal peoples of Russia, its liberation from commercialization, instilling and strengthening traditional ethnic and interethnic values, respect for people for each other.

Unfortunately, the Law of the Russian Federation on the Amendment to the Constitution of the Russian Federation dated March 14, 2020 No. 1-FKZ "On Improving the regulation of certain issues of the organization and functioning of public power" did not address the improvement of the intra-federal distribution of competence. The content of art. 73 of the Constitution does not contain specific powers of the subjects of the Federation, being limited only by a general algorithm, endowing the subjects with the fullness of state power outside the jurisdiction of the Russian Federation and the powers of the Russian Federation on subjects of joint jurisdiction of the Russian Federation and the subjects of the Russian Federation. Such a vague formulation opens up unlimited scope for the centralization of power and the limitation of the legal possibilities of subjects in their development. Currently, the competence of

the subjects of the Russian Federation, as set out in their Constitutions and Charters, is reduced only to the powers exercised by the subjects within the "subject" part of the issues enshrined in Article 72 of the Constitution on subjects of joint jurisdiction of the Russian Federation and the subjects of the Russian Federation. A specific list of exclusive powers, i.e. those belonging only to the subjects of the federation, is needed, the range of which cannot be narrowed and limited at the volitional discretion of the central government.

At the same time, the content of articles on the limits of federal jurisdiction and subjects of joint jurisdiction of the Russian Federation and the subjects of the Russian Federation also needs to be adjusted. The protection of human and civil rights and freedoms and the protection of the rights of national minorities are both assigned to the first (paragraph "c" of Article 71 of the Constitution) and the second (paragraph "b" of Article 72 of the Constitution) groups. This often leads to confusion, making it difficult for subjects to ensure the individual and collective rights of individuals.

4. Conclusions

The authorities should realize the identified problems and the need to overcome them, show their political wisdom and foresight. Moreover, scientists and politicians have repeatedly paid attention to these issues. It remains only to increase the determination and activity of managers in achieving their goals and the degree of responsibility to the population.

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