

RUSSIANS' ATTITUDE TO THE CONSTITUTIONAL NIHILISM

Tatiana V. Rekhacheva

Dostoevsky Omsk State University, Omsk, Russia

Article info

Received –

2021 October 19

Accepted –

2022 April 11

Available online –

2022 June 20

Keywords

Nihilism, legal nihilism,
constitutional nihilism, form of
constitutional nihilism, poll, public
opinion, Constitution,
Constitutional Amendments,
constitutional reform,
unconstitutional legal awareness

The subject of the research is the problem of constitutional nihilism in views of Russian citizens.

The purpose of the article is to confirm or disprove a hypothesis about a strong influence of constitutional nihilism in the Russian Federation on people mind. The research was made to identify the most and least dangerous forms of constitutional nihilism existing in the territory of the Russian Federation also.

The methodology. The public opinion poll was conducted in Google Forms. The research consists of 15 open and closed questions. 1078 respondents from 28 constituent entities of the Russian Federation took part in the poll. They represent all eight Russian federal districts.

The main results, the scope of application. Over 70% of respondents have a negative stance on constitutional nihilism especially after the approval of the last Constitutional Amendments in 2020. According to the public opinion poll, the majority of respondents evaluate the Russian Constitution of 1993 as positive. 67,1% of respondents agree that constitutional nihilism came from western countries and only almost a quarter of respondents stated the nature of constitutional nihilism as native Russian. 64,4% of respondents choose constitutional reform as the most dangerous form of constitutional nihilism. 62,1% of respondents choose the forming of unconstitutional legal awareness as the most dangerous form of constitutional nihilism and 49,8% choose authorities' discredit as it. The least dangerous forms of constitutional nihilism according to public opinion poll are a civil war (39,7%) and constitutional fiction (31,6%).

Conclusions. The results reveal a high level of unconstitutional legal awareness in Russian society. The author has confirmed its hypotheses and discovered the most and the least dangerous forms of constitutional nihilism. The author plans to repeat the research the next year and cover people from more Russian constituent entities.

1. Introduction

This sociological study was conducted as the part of the thesis research on the topic "Organizational and legal mechanism for overcoming constitutional nihilism". The aim of research was to discover Russian Federation citizens' attitude to the Constitution of the Russian Federation of 1993¹ and to the amendments to the Constitution of the Russian Federation adopted in 2020², as well as to identify the most and the least dangerous forms of expression of constitutional nihilism.

Researchers define constitutional nihilism differently, one believes that it is "a denial of the role of the Constitution as the Basic Law of the state, a denial of norms, principles, traditions of constitutional law, a complete skepticism and disbelief in the idea of human rights" [1, p.18]. The second believes that "it is adaptation to the needs of a tyrant or tyrannical minority or majority" [2, p.156], the third believes "it is the merger of the party and state apparatus, and the needlessness of the constitution" [3, p. 73], there is even a definition through the biological component "it is subconsciously controlled by reactive forces when it falls into a passive state" [4, p. 58]. The following definition will be used as a basic definition. Constitutional nihilism is a complex socially dangerous phenomenon that changes the psychological state of a person to the fundamental norms of legislation; it is characterized by a sharply negative attitude towards constitutional norms and relations [5, p.17].

Sociological research is applied in constitutional law, the field of research are constitutional and judicial protection of the economic rights of citizens [6], state authorities of the subjects of the Russian Federation [7], constitutional and legal responsibility [8], constitutional control and constitutional

responsibility of the head of state [9]. A noteworthy detail is that that most of the studies were conducted in 2007-2009. In 2001-2005 were defended many PhD thesis which included constitutional legal research. The topics were following division of state power in the Russian Federation [10], the causes and conditions for the development of federalism [11], and even forced migration [12]. After 2010 there are not so many constitutional researches were conducted.

2. The methodology.

The author used sociological research methods.

Sociological science uses several types of survey: interviewing, questioning, expert poll, sociometry and the method of special characteristics [14, p.9-10].

The survey has four main phases:

- 1) preparation of the survey - June 2021.
- 2) collection of primary sociological information - June-September 2021.
- 3) material processing - October 2021.
- 4) making conclusions - October 2021 [13, p.9].

This survey is selective, i.e., certain target groups are interrogated [15, p.9; 16. p. 99]. The author chose an internet survey. The survey was made in Google forms and had 15 open and closed questions. There were 10 questions where respondent is asking to choose one possible answer. Eight of these 10 questions had an opportunity to choose answer "Other" and supplement the suggested answers with their own suggestions. Another 5 questions were grid-in questions, so respondents shall answer themselves.

The survey interrogated 1078 people. This number of respondents gives us the right to talk about the representativeness of the sample and reduces the selection error [17, p. 59], and it allowed us to make conclusions [18, p.12]. According to the sample size the accuracy level would have the selection error about $\pm 3\%$ [19, p.36], so the author of the study will present results in percentage and in exact number of people who answered this question.

3. The results

The survey respondents represented 28 regions of the Russian Federation from all federal

¹Constitution of the Russian Federation (adopted by national referendum at the 12th December 1993).

²Constitution of the Russian Federation (adopted by national referendum at the 12th December 1993 with amendments approved during all-Russian voting at the 1st July 2020).

districts of the country. Respondents live in the Vladimir, Voronezh, Ivanovo and Kaluga regions of the Central Federal District, in the republics of Mari El and Mordovia, the Nizhny Novgorod region of the Volga Federal District, the Sverdlovsk, Tyumen and Chelyabinsk regions of the Urals Federal District, the Leningrad and Murmansk regions and the federal city of St. Petersburg of the Northern-Western Federal District, Altai and Krasnoyarsk Territories, Kemerovo, Novosibirsk, Omsk and Tomsk Regions of the Siberian Federal District, Volgograd Region and Krasnodar Territory of the Southern Federal District, Stavropol Territory of the North Caucasian Federal District and Kamchatka, Primorsky, Khabarovsk Territories and Amur, Magadan and Sakhalin regions of the Far Eastern Federal District.³ These regions of the Russian Federation were selected randomly, as it is required by mass surveys aimed at studying the public opinion of the country's population [20, p. 31], quotas were not supposed. Fig.1. shows the number of respondents in each of the federal districts of the Russian Federation.

In the second question, the respondent was asked to choose one of the age categories to which he or she belongs: 14-20, 21-30, 31-60, 60 and older. The results were distributed as follows: 638 respondents or 59% are people aged 31-60, 359 respondents or 33% are people aged 21-30, 60 respondents or 6% are people aged 14- 20 and 21 respondents or 2% are people 60 and older. These age ranges were chosen on purpose, because author believes that a person's legal consciousness is formed by the age of 30. By this time a person already has a job, civic-mindedness and own opinion. The 20-year-old is also marking as a tipping point, because after this age young people are less influenced by idols and peers and begin to form their own opinions.

In the next, third question, the respondents were asked to choose one of the social statuses. The results were distributed as

follows: 318 respondents or 29.7% are state or municipal employees, 287 respondents or 26.8% are students, 209 respondents or 19.5% are employed, 158 respondents or 14.8% are pensioners, 51 respondents or 4.8% are self-employed and 48 respondents or 4.5% are unemployed. Author treats results as a quite acceptable, because the main social groups of society are represented.

After the introductory block, where the respondents indicated their age, social status and the subject of residence, the questionnaire included questions on the constitutional system and constitutional relations.

The fourth and fifth questions suggested the choice of one of four answers: positive, rather positive, negatively, rather negatively. In the fourth question, respondents indicated their attitude to the Constitution of the Russian Federation adopted in 1993, 458 respondents or 42.5% find it rather positive, 424 respondents or 39.3% find it negative, 109 respondents or 10.1% find it positively and 87 respondents or 8.7% find it negative. In the fifth question respondents indicated their attitude to the amendments to the Constitution of the Russian Federation adopted in 2020. The respondents answered as follows; 689 respondents or 63.9% find it rather negative, 264 respondents or 24.5% find it rather positive, 98 respondents or 9.1% find it positively and 27 respondents or 2.5% find it negative.

In 2013 there was another sociological survey, that was conducted among 1060 university students, and then to the question "What is your attitude to constitutional reform of 1989-1993?", the results were distributed as follows: 58.5% are neutral or do not think about it, 18.5% are positive, but think that the result could be better, 13.2% are positive and agree that the results are completely effective, 8.3% are negative, and 1.5% chose the option "other"⁴. The results of the 2013 survey can be compared with the results of the 2021 survey and we find that the attitude towards the

³Decree of the President of the Russian Federation of 13th May 2000, N 849 (R.E. on 4th February 2021) "About envoy from the President of the Russian Federation in the Federal Districts".

⁴Data of a sociological survey conducted in 2013 among students of 1-5 courses of the Naberezhnye Chelny Institute of Kazan Federal University. [Electronic resource] - Access mode. — URL: http://www.kpfu.ru/main_page?p_cid=77270&p_sub=6206 (date of access the 19th November 2021).

Constitution of the Russian Federation adopted in 1993, remained the same and generally positive.

Fig. 2 demonstrates the current trends towards the growth of a negative attitude towards the text of the constitutional law. If the attitude towards the Constitution of the Russian Federation of 1993 was defined by the majority of respondents as positive, then in relation to the amendments made to the Constitution of the Russian Federation in 2020 almost 70% of respondents defined it as negative. This change may characterize the nihilistic attitude of society.

In the sixth question the respondent was asked to choose from four options: a native Russian phenomenon, borrowed from Western countries, borrowed from Eastern countries, and the “other” option. The question was wheatear you could indicate the nature of the origin of constitutional nihilism. The results were as follows: 721 respondents or 67.1% believe that constitutional nihilism is borrowed from Western countries, 274 respondents or 24.5% believe that constitutional nihilism is a native Russian phenomenon and 81 respondents or 7.5% believe that constitutional nihilism was borrowed from Eastern countries, 2 respondents chose the “other” option and answered that they did not know.

The obtained data confirmed the version of the author of the thesis research that constitutional nihilism came to the Russian Federation from the West and was engrained in the people’s conscious. Also, the obtained data coincided with the opinions of other researchers of nihilism, so V.G. Kosykhin pointed out several times that nihilism came to Russia from the West [21, p.9]. M.V. Kirchanov even pointed out that the East was conquered by nihilism from the West [22, p.154-155].

In the seventh question the respondent was asked to choose one of several currently existing forms of expression of constitutional nihilism in the Russian Federation, i.e., it is a rank scale, which is mainly based on subjective indicators [23, p. 61]. If the respondent believed that there was some form that the author did not list, he could add it himself in the “other” answer, but there were no such additions. The results shown below in fig. 3. 463 respondents or 43.2%

chose a constitutional reform, 347 respondents or 32.4% chose a creating of unconstitutional legal awareness, 98 respondents or 9.1% chose a constitutional coup, 63 respondents or 5.9% chose a discrediting of power, 49 respondents or 4.6% chose dead constitutional norms, 24 respondents or 2.2% chose a secession, 22 respondents or 2.1% chose constitutional fictions and 6 respondents or 0.6% chose a civil war.

In the eighth question the respondents were asked to choose according their opinion the most dangerous form of expression of constitutional nihilism. They could choose several options, so the results were as follows: a constitutional reform - 64.4%, a creating of unconstitutional legal awareness - 62.1%, a discrediting of the government 49.8%, a constitutional coup 45 .1%, a secession - 12.1%, dead constitutional norms - 9.7%, constitutional fictions - 6.3% and a civil war - 3.9%. Based on the survey, we can confirm that according to the respondents the most dangerous forms of expression of constitutional nihilism are a constitutional reform, a creating of unconstitutional legal awareness, a discrediting the government and a constitutional coup. It is necessary to define them. The author understands the constitutional reform as a modification, a transformation, a replacement, a modernization, a reformation, and a development of the basic law in connection with changed dramatically relations [24, p.25]. The creating of unconstitutional legal awareness is a long and labor-intensive process, since it is based on lectures, discussions, seminars and the distribution of printed publications, where the authorities are not directly discredited or condemned. The discrediting of power has several stages, since there are two main signs of power: the acknowledgment of power and the duty to comply [25, p.11]. The author considers the discrediting of power as active and focused actions to erosion of credibility and level of confidence in the state apparatus or state structures in general. The constitutional coup is a seizure of power with a mandatory major violation or complete disregard for constitutional norms. It should be noted that “a constitutional coup is always a political coup, but a political coup is not always a constitutional coup” [26, p.4].

In the tenth question the respondents were

asked to choose according to their opinion the least dangerous form of expression of constitutional nihilism, interesting that the results completely repeat the results of the eighth question in reverse order. The least dangerous forms of expression of constitutional nihilism are a civil war, 39.7%, and a constitutional fiction, 31.6%. The obtained results are greatly surprised the author because a civil war cannot be considered as the least dangerous form of expression of constitutional nihilism.

In this study a civil war is understood as a war within a state, when one of the parties is fighting for constitutional values, so not every civil war can become a form of expression of constitutional nihilism. As an example, we can name the civil war of 1917-1923 years. We still have many civil wars, but today they are a struggle for the right to possess a certain territory, rather than a struggle for political and economic rights. The constitutional fictions are some kind of ideal models, because "without the category of fiction it is difficult to recognize a non-existent situation as existing" [27, p. 108]. It is believed that constitutional law is a concentration of legal fictions [28, p.20].

After questions about the most and least dangerous form of expression of constitutional nihilism, the respondents were asked to explain their choice, but most of the answers were the same: "I think so", "I heard about it", "friends discussed it".

In the twelfth grid-in question respondents were asked to give an example of constitutional nihilism in the Russian Federation. Answers were not very informative because most of the answers were "I don't know" or links to articles on the Internet where one pointed to gaps in the Constitution of the Russian Federation. Seven respondents pointed out criminal cases, three respondents even quoted decisions of the Constitutional Court of the Russian Federation.

In thirteenth question the respondents were asked to rate on a 1 to 10 scale the degree of danger of constitutional nihilism in the Russian Federation, where 1 is "the danger is completely absent" and 10 is "the danger is maximally manifested". This question is a scale, and it is used to change the different attitudes of the respondent

[29, p. 30; 30]. The majority of respondents have chosen 6 points (358 respondents), 7 points (298 respondents) and 8 points (121 respondents). The biggest part of respondents has chosen the second part of the scale (from 6 to 10), only 163 respondents or 10% have chosen the first part of the scale (from 1 to 5). Fig. 4. shows all the answers.

In the fourteenth question the respondents were asked to choose one of the branches of society that is affected by constitutional nihilism. The survey results are a little unexpected, since only 634 respondents or 58.1% have chosen the legal branch, 358 respondents or 33.2% have chosen cultural branch more, 79 respondents or 7.3% have chosen social branch, 4 respondents or 0.4% have chosen historical branch and 3 respondents or 0.3% have chosen domestic branch.

In the fifteenth question respondents were asked to indicate what measures the state shall take in order to decrease the level of constitutional nihilism. The question was an opening issue and there were a lot of different suggestions, in particular, there were mentioned a reduction of corruption, a reduction of the number of officials, an introducing a new section into the Criminal Code for spreading constitutional nihilism, an introducing a new section into the Code of Administrative Offenses for spreading constitutional nihilism, a creation of a special military unit to combat constitutional nihilism. One even proposed to repeat a constitutional reform again and fundamentally change the country's constitution.

4. Results

We can be concluded that the respondents see the current situation and acknowledge the existence of constitutional nihilism in the Russian Federation. The majority of respondents have a rather positive attitude towards the Constitution of the Russian Federation of 1993, and the majority of respondents have a negative attitude towards the amendments to the Constitution of the Russian Federation adopted in 2020. From this perspective the state, which has all the available tools and mechanisms, shall improve the existing mechanisms and practices to overcome constitutional nihilism. The author considers that the survey reflect reality, because the survey involved respondents from all federal districts of the country. Most of the

respondents are already steady individuals who are responsible for their decisions. Despite the fact that the questions were difficult for an unprepared person, the author did not specifically send out a survey for law students or lawyers in order to collect the opinions of people for whom law is not a main area of expertise.

As the most dangerous forms of expression of constitutional nihilism were chosen a constitutional reform, a creating of unconstitutional legal awareness, a discrediting the power and a constitutional coup. The least dangerous were named a civil war and constitutional fictions.

The results of the conducted sociological survey will be included in the author's thesis research. It is planned to conduct a repeated this sociological study in a year to correct the results [13, p. 9].

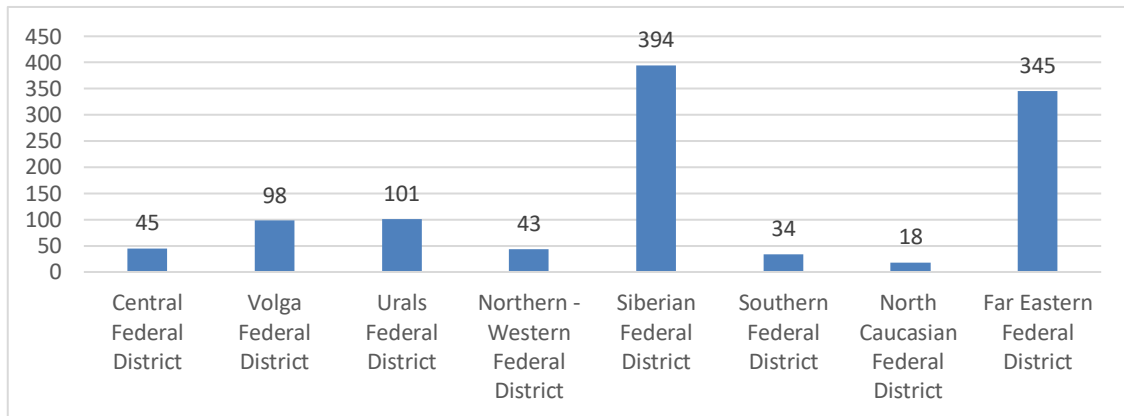


Fig. 1. The number of respondents by federal districts

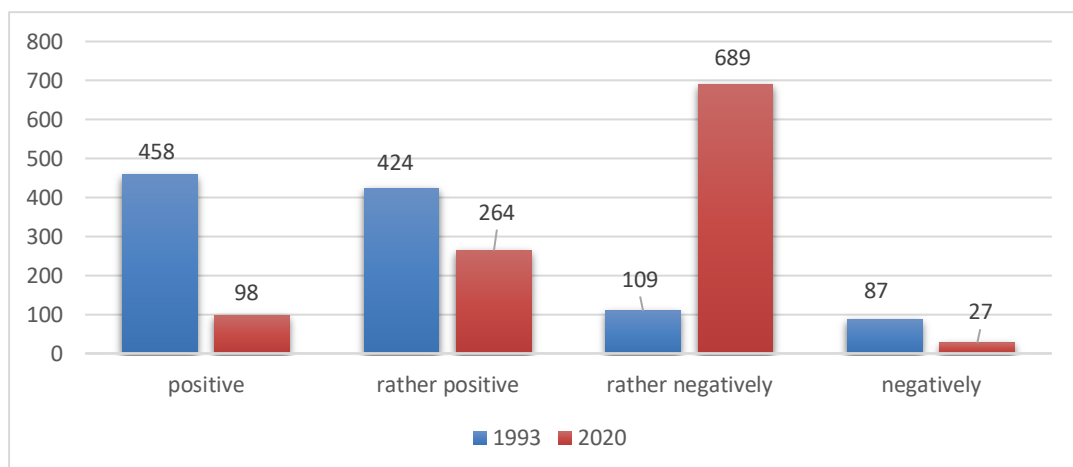


Fig. 2. The change of attitude to the text of the Constitution of the Russian Federation of 1993 and the adopted amendments to the Constitution of the Russian Federation of 2020.

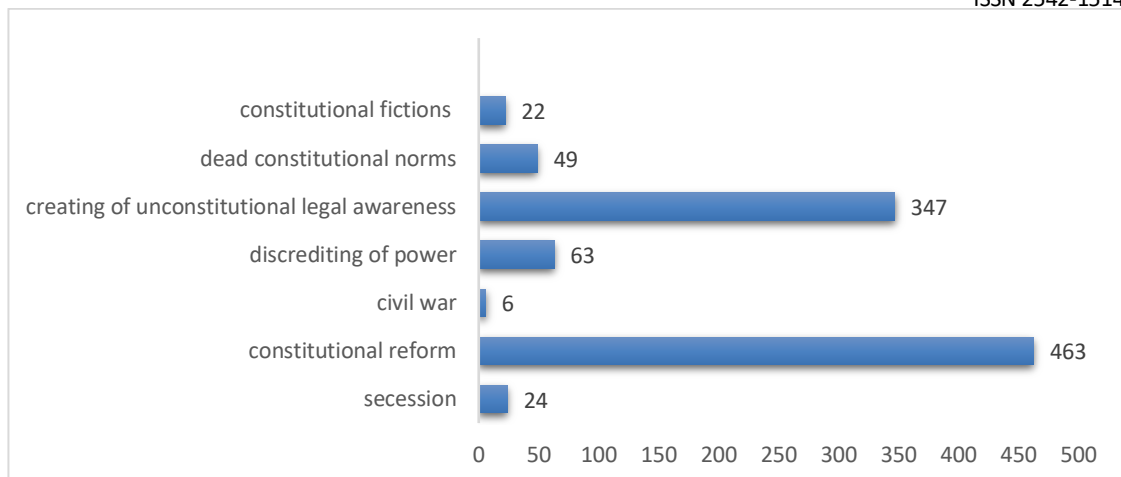


Fig. 3. The forms of expression of constitutional nihilism in the Russian Federation.

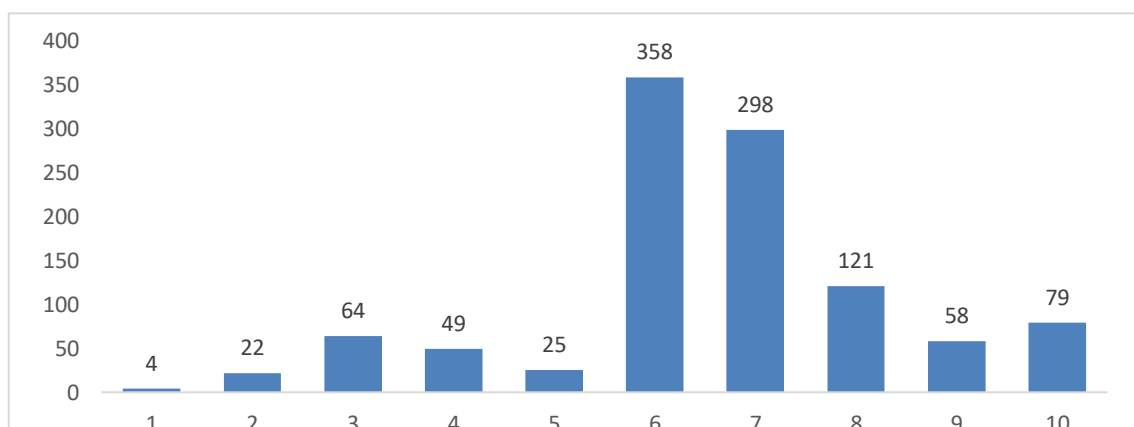


Fig. 4. The distribution of respondents' opinions according to the degree of danger of constitutional nihilism

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INFORMATION ABOUT AUTHOR

Tatiana V. Rekhacheva – PhD Student, Department
of State and Municipal Law
Dostoevsky Omsk State University
55a, Mira pr., Omsk, 644077, Russia
E-mail: tatiana.rekhacheva@gmail.com

BIBLIOGRAPHIC DESCRIPTION

Rekhacheva T.V. Russians' attitude to the constitutional nihilism. *Pravoprименение = Law Enforcement Review*, 2022, vol. 6, no. 2, pp. 159–168. DOI: 10.52468/2542-1514.2022.6(2).159-168. (In Russ.).