

Principles of equality and justice as absolute values of Russian constitutionalism

Ravia Faritovna Stepanenko^{1*}, *Farida Ildarovna Khamidullina*², *Lidia Leonidovna Sabirova*¹, *Alena Vladimirovna Soldatova*³, and *Ilshat Radivovich Ashrafzhanov*¹

¹Kazan Federal University, Department of Theory and History of State and Law, Kazan, Russia

²Kazan Federal University, Department of Civil Law, Kazan, Russia

³TISBI Management University, Department of Theory and History of State and Law, Kazan, Russia

Abstract. The article considers common legal principals of equality and justice whose significance is increasing in the conditions of uncertainty and instability of the modern public order. Negativism of differentiation processes and increased social inequality studied by the legal science draws the attention of researchers to the cognition of constitutionalism ideas that can be used (as the authors believe) to overcome unfavorable situations related with adherence to and protection of the rights and freedoms of citizens defined by the Constitution of the Russian Federation. The principles of equality and justice having absolute value in the system of value and mentality institutes must serve a basis for the methodology of rule-making and enforcement activity. The authors also highlight the need to observe succession in the doctrine and practice of constitutionalism, namely the need for support in achieving pre-revolutionary and soviet legal science. In this light, the liberal approach to the principles of equality and justice cannot take the monopoly position and must be supplemented by other ideas developed in the science. Taking into account methodological positions, the specific features of implementing the principles of equality and justice must be the subject of doctrinal researches of the theory of state and law and constitutional law in the methodological synthesis of interdisciplinary relations.

Keywords: principle of equality, principle of justice, constitutionalism, methodology, interdisciplinary relation, law, state, human rights

1 Introduction

The post-industrial era of uncertainty, instability and precarious public relations, palliativeness of decisions taken by the authorities, high riskogenics of political, economic and legal contents of statehood determine (at least to some extent) the destabilizing nature of management functions of state and law. The scientific literature points out that the dramatic transformation of public activity taken place during 2020 and its consequences have become an indicator of the public authorities' capability to timely and reasonably respond to new challenges while keeping its social vector [1]. This initiates the search for

* Corresponding author: stepanenkorf@yandex.ru

new ways, methods, means and mechanisms for arranging public relations and draws close attention of theoretical legal science to justification of constitutionalism ideas as the basis of the Russian statehood.

Global processes of legal framework modification related with political, socio-economic, socio-cultural, environmental and epidemiologic threats and challenges require doctrinal study and justification of new ideas using conventional methodological approaches together with those that offer improvements to the legislative array and law enforcement.

Understanding complex problems of social inequality, poverty, socio-economic vulnerability of quality of life of most population that occur due to the state diving into uncontrolled capitalism, both previously (as in the Marxist-Leninist methodology [2]) and today, become the main stream of the methodology paradigm of socio-humanistics.

The Russian officials have acknowledged an unprecedented troubled condition of social and economic security of Russian citizens, and this fact shows state concerns about the issues of observance and protection of constitutional rights and freedoms. At the meeting with the deputies of the 8th State Duma, the Russian President V.V. Putin stated that the main threat of stable development for the Russian demographic future is low income of millions of our citizens [3].

2 Materials and methods

The paper uses common scientific (induction, deduction, analysis, comparison) and partial scientific (legal interpretation and legal modeling) methods for interdisciplinary interaction of theoretical legal science and constitutional law. It considers scientific papers of famous Russian and Foreign theorists of law and constitutionalists and briefly analyzes individual provisions of the Russian Federation Constitution.

The article is intended to substantiate, in doctrinal terms, the need for modernization of the liberal approach to the principles of equality and justice. As primary objectives, it considers the problem of observance and protection of constitutional rights and freedoms in terms of implementation of national interests of the Russian Federation and highlighting possible theoretical legal, disciplinary, intersectoral and interdisciplinary approaches to addressing the above issue.

3 Results

It can be stated that the strategies of modern legal policy insufficiently consider the importance of doctrinal provisions of the legal science about absolute values and principles of justice and equality. Being especially popular in the conditions of today's uncertain world order, concentrating on the considered principles will substantiate those patterns of behavior models of individual and collective subjects of legal relations which are the only way to achieve the ordering of social relations. In the conditions of the cascade of crises that has taken an unprecedented extent, as the UN General Secretary A. Guterres believes [4], resorting to common human values of justice and equality entices the civilized society to rethink pragmatic and practical goals of its life activity in the name of human well-being today and tomorrow.

4 Discussion

Scientific researches of Russian legal experts and constitutionalists indicate deep concerns about the issues of modern imperfections and omissions of law. By conceptually

considering the issues of modern Russian constitutionalism, B.S. Ebzeyev notes that the Russian statehood fails to meet the demands of accelerated national progress since it is affected by trends of industrial capitalism and liberal ideas of minimizing the state role and economy regulation. This circumstance identifies the problems in our state ability to guarantee implementation of national interests and keep its civilized state identity. The primary goal of legal science must be the search for such state and legal organization of the society that could, in combination with our era imperative (individual freedom), could promote stable law enforcement and movement towards legal development [5].

In these conditions, the role of the Constitutional Court significantly rises as an intermediary – an arbitrator in reconciling competing interests. The spirit of law – equality and justice – manifested in the Constitution can reconcile social conflicts and strengthen the social world [6] as fairly states the President of the Constitutional Court of Russia V.D. Zorkin.

Equality and justice as absolute and permanent values that do not depend on specific historical periods and political ideological values act as indicators of law viability during the entire development of civilization. Actual equality whose substation is possible only in case of high abstraction and existence of metaphysical narrative as well as political-legal understanding of formal (legal) equality in methodological context bring about the understanding of equality and justice.

As the famous Russian legal scientist and methodologist D.A. Keriov stated, equality and justice are uniordinal categories but not identical. Humans are not equal to each other, since everybody has their own features of mental, educational cultural, theoretical nature, etc., and lives and acts in different social conditions and circumstances... Equaling people... ignores their individual abilities, entrepreneurial spirit, energy, merits before society... equaling people in distribution of social benefits is unjust and, therefore, negates equal rights. When the work of a state official mechanically performing his/her functions without any mind strain, without “sacred fire”, is evaluated by law (order or decree) as much higher than honest, inspired, creative labor... the law is in direct conflict with justice, legality and, moreover, it negates them [7].

In its turn, justice is expressed, *inter alia*, by remuneration proportionate to the labor contribution. The Russian population takes this issue painfully because the Russian mentality has the notions of truth, and such words as justice, truth, law, righteous are cognate in the Russian language. As N.K. Mikhaylovsky stated, “only the Russian language uses the same word to denote truth and justice and they merge into one great unity: [8]. In this world outlook incompatible with any moral relativism, strong property inequality will always be a target for high non-acceptance and scathing criticism.

Pre-revolutionary law theorists tried to partially address the issue of excessive property inequality. For example, P.I. Novgorodtsev, I.A. Pokrovsky, B.A. Kistyakovsky developed a structure of subjective right for life worth living including its different content [9, 10].

It may seem that such approaches contradict the doctrine of constitutionalism that is liberal, but V.V. Kochetkov notes that “though historically constitutionalism emerges from liberalism, they take different routes in the 19th century when solving the social (labor) issue, which has affected the development of the Russian constitutionalism of that period [11]. Discrepancy of various ideas of the Russian social-philosophical and legal mindset with the liberal approach is not a reason to violate succession and reject fruitful ideas. This seem even more justifiable since P.I. Novgorodtsev argued with the liberal approach of B.N. Chicherin and fairly noted that “this theory sets the goal of protecting freedom and distinguishes it from the need to replenish resources, so it forgets that using freedom can be paralyzed by insufficient resources [9]. The argument of one of the famous representatives of modern liberalism A.F. Hayek that the results of distribution for individual persons are

not designed or planned [12] and therefore there is no sense to consider this process as just or unjust is far from reality.

The socio-philosophical ideas of the past and today are much wider than liberal approaches. For example, a prominent theorist of justice J. Rawls believed his concept as the agreement theory development but he left open the question of whether there must be production means in private property [13]. Apart from the theory of J. Rawls, there are many other theories of justice such as the communitarianism theory that suggest caring of common benefit. One of the representatives of this theory is A. MacIntyre [14].

The problem of property inequality was most efficiently solved in the Soviet period and this result was achieved based on Marxism that considered the need to elimination of human exploitation [15]. When considered in the culturological opposition friend-or-foe, the latter promotes destruction of inter-human communications and leads to interpretation of forced labor as hostile [16]. Suppressing biological instincts (food, warm clothing, medications, etc.) becomes the cause of cognitive dissonance, frustration and escapism due to low income and material dissatisfaction of population, which must be taken into account by the law. Rejecting this problem (and succession of the doctrine to constitutionalism practice) leads to the fact that approaches developed by the Constitutional Court of the Russian Federation may not fully address the issue of socio-economic ill-being of the modern Russian population and it became possible to improve the rule-making in this area. Therefore, A.V. Soldatova and Y.V. Soldatov note that “we must not diminish the experience of legislative setting of socio-economic rights of citizens and practical enforcement of these rights” [17].

At the same time, justice can be considered as an ideal value that covers the entire area of law-making and law enforcement together with the supremacy of law. We note that the Russian science considers the supremacy of law as one of the fundamental ideas of the theory of the rule of law. This is not only formal support of regularity and sequence in achieving and enforcement of the democratic order but an element of justice based on admission and full acceptance of human personality and respective guarantees from the state [18].

Let us recall Aristotle: “Anything set out by law is just in a sense, for all that is set by the legislator is legal and each individual decree is called just” [19]. Therefore, the modern Russian legislation and legal practice follow the approach to a greater extent, which makes deviations from legality for the reason of just are unacceptable in either content or defined law order.

5 Conclusion

By considering the need for legal modernization in terms of compliance with the Constitution provisions, branch-wise rule-making and law enforcement with the principles of equality and justice, special attention should be paid to efficiency of the Russian law and its future perspectives. Setting law order in the light of today’s social inequality seems insufficiently realistic. Substantiation of legal policy that must be based on the principles of quality and justice, setting legal guarantees for their implementation, strict constitutional control over compliance with the declared priority of rights and freedoms confirm the value of the Russian constitutionalism and its significance in the socio-legal reality permanently studied by the modern legal science.

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