

The Constitutional Regulation of Social Relations in the Modern Period of Development of the Russian Federation: Definition and General Characteristics

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Abstract: The article investigates the concept and characteristics of the constitutional regulation of social relations as phenomena occupying a leading position in the system of legal regulation at the present stage of the Constitution of the Russian Federation.

Key words: Constitutional regulation • Social relations • Russian Federation

INTRODUCTION

The analysis of legal literature shows, that today interest in the issue of the constitutional regulation of public relations does not decrease, it is represented by the appearance of a number of scientific publications describing different aspects of it and pointing to the relevance and the need for a comprehensive study of the constitutional regulation of social relations. In this way, according to D. A. Kovachev, this need is caused by developing of science-based definition of "constitutional regulation of social relations" and its contents. "In the legal doctrine - the author notes, there is still no consensus about what is liable to the constitutional regulation" [1-3]. "Category of constitutional regulation point in their study K. K. Aitkhozhin and E. T. Seksembaeva - her research should take its rightful place in the conceptual and categorical apparatus of the theory of constitutionalism because it is she, who characterizes the actions of the Constitution as the Basic law of the state, its decisive influence on the fundamental social processes" [4, 5].

It seems that the time has come to develop the theoretical foundations of the constitutional regulation of public relations. Determination of the content of the given concept, the selection of features, in our opinion, is not just a fashion statement, the process of its studying will let to highlight new aspects of the theory of constitutional

regulation of social relations in the discourse of constitutional axiology, its definition, features, ways methods, limits, etc.

With the adoption of the Constitution of the Russian Federation in 1993 the country has significantly changed its legal and constitutional values [6]. At present, according to scientists the Constitution of the Russian Federation is a complex, many-sided political and legal document of the state and society, the result of a consensus of various political forces on ways of development and methods of solution of standing social problems [7, 8].

The many-sidedness of the Constitution of the Russian Federation is based on its special legal nature.

On the one hand the modern Constitution of the Russian Federation is the state-legal model of the state and society. Namely it in its standards declares belonging of power to the people, sets out the principles of the organization and government action, identifies the leading forms of ownership and the system of economic relations of the Russian society, regulates the legal status of citizens, public associations, the order of their relations with public authorities, establishes the distribution of powers between the federation and its subjects.

On the right statement of Yu.N. Todyki: "The Constitution has its purposes and functions; it is based on the values of constitutionalism, developed by mankind on its own state-legal experience. Constitution is the

state-legal model of society, the essential factor in ensuring legitimacy, law and order, stability of government institutions. It has increasingly important impact on the socio-economic and political processes, on the mechanism of decision-making at different levels of the social system. The practice of applying its rules does not always go smoothly, in part because of the different positions of the political forces, confrontation of power structures, complex economic and socio-political environment [9-11].

On the other hand many-sidedness of the Constitution of the Russian Federation is manifested in its special legal nature as a legal act having supreme legal authority. In this regard, the statement of Zh. I. Ovsepyan about "the distinctive feature of the Constitution as compared to the ordinary laws is of a particularly high level of generalization, abstraction of constitutional regulation, because the Constitution guarantees the basic principles, the foundations of social and political system. Many-sidedness of language of the provisions is typical for the Constitutions, which is also among other things provides greater stability and longer duration." is still valid [12, p.13]. M. T. Baimakhanov also wrote about the normative value of the Constitution "in the legal sense the Constitution is a compressed very briefly worded normative standard, following which is mandatory for all citizens and other subjects of social relations on the territory of the State [13, p. 49]. Professor E. I. Kozlova also specifies this feature of the Constitution. According to her "the Constitution is everything." As a constitutive act, it legally transferred us to another era, another world, in which the state and society are based on fundamentally new principles: democracy, the legal nature of the state and its democratic essence; a person, its rights and freedoms are declared as the highest value and fundamental rights and liberties are inalienable and belonging to man by birth; separation of powers; the transition from a Soviet to a parliamentary system of representation of the people, multi-party, ideological diversity; the declaration of the social character of the state; the declaration of local government and others" [14, p. 311].

Many-sidedness is manifested in the fact that the Constitution of the Russian Federation has legal control effect on the most important spheres and areas of public life - politics, economy, social sphere, foreign policy and a number of other key spheres and sectors of life and governance" [15, p.7]. According to V. O. Luchin "The Constitution is significantly different from other regulatory legal acts, none of which can claim to be so

wide all-embracing coverage of public relations. At the same time - notes the author - Constitution regulates only those relationships, which are of interest to the scale of the whole society and the state" [16, p. 9].

It should be noted that the focus of the constitutional regulation, its role and purpose in the system of social relations have changed with the adoption of the Constitution of the Russian Federation. In this regard, Professor S. A. Avakyan points out that "taking into account the evolution of the constitutional regulation of course there are reasons to constructively talk about the working Constitution of the Russian Federation, that it was the result of teamwork. In this respect, it is obvious - said S. A. Avakyan - that such constitutional provisions as a democratic character of the constitutional system in the whole and the state, political pluralism and a multiparty system, diversity of ownership, the social role of the state today are not denied by anyone and are the foundation of the state and social development" [17, p. 50].

The question rises, what nowadays must define the concept content of "constitutional regulation of social relations." Unfortunately, it has to be noted that the question on what lies at the heart of such a complex definition as a constitutional regulation of social relations has not received proper justification in constitutional studies. Meanwhile, in our opinion, the study of this question can not be divorced from consideration of the category of the legal regulation studied in detail in the works of scientists of law theorists. It is a framework of theoretical science and science of constitutional law, including multiple elements, showing their relationship and interaction with each other.

In modern legal literature the study of the category of legal regulation, as the phenomenon of the legal sphere, was carried out within the subject matter of the general theory of law. The origins of this concept are in the dictionaries of common words, where the authors suggest its various short determinations, serving later as a reference for many researchers, describing the concept of legal regulation.

The term "to regulate" means subjection to a certain order, the rules; the impact on the operation of the mechanism and its parts, achieving the desired flow of a process [18, p. 549]. With regard to the research topic, the term of the legal regulation, which firmly entered into a legal usage and found nowadays a wide usage in the scientific literature, becomes particularly important to us. Thus, in different development periods of theoretical science the concept content of "legal regulation"

scientists considered in different ways: as an activity of direct participants of social relations [19], the implementation of the legal rules in the legal relationship [20], the application of the legal rules and other means [21]. Relying upon the solid experience of scientists of law theorists in the study of concept of "legal regulation" under the "legal regulation means we consider activity of subjects of law carried out with the help of legal tools and techniques in order to regulate social relations and their progressive development. Regulating behavior, law by that regulates the relations in which there are subjects with rights and responsibilities.

There is no doubt that the constitutional regulation of social relations has a leading position in the system of legal regulation. In establishing by its rules the different kinds of social relations the Constitution of the Russian Federation elevates them to the status of inviolable, untouchable and thus gives a special character to the process of their regulation. In this regard, it is possible to agree with opinion of O. V. Belyanskaya, that "feature of the constitutional regulation is related to the legal nature of the Constitution, which has the highest legal force in its system of legal acts and serves as the legal basis for the development of any and all branches of Russian law" [22, p. 59].

Thus, taking into account the defining role of the Constitution of the Russian Federation in the impact on contemporary social relations under the concept of constitutional regulation of the social relations we mean an ordered effect of the Constitution of the Russian Federation and constitutional legislation on the different types of social relations in the sphere of foundations of constitutional order, the human and civil rights and freedoms, the organization of state power and the interaction of the Federation and its subjects, the local government carried out with the aid of the system of specific constitutional means, methods, techniques and constitutional norms.

The proposed interpretation of the concept of constitutional regulation of social relations can identify common distinguishing features peculiar to the constitutional regulation of social relations. These include the availability of the system of legal tools and subjects carrying out activities aimed at regulation of social relations.

The constitutional regulation with a special system of means and methods regulates different kinds of social relations. Analysis of the norms of the Constitution of the Russian Federation shows that constitutional prohibitions, restrictions, permission, responsibilities can

refer to the number of these methods. State-set and secured by its coercive power methods, techniques and tools of constitutional regulation have an impact on particular kinds of social relations, relationships designed to protect the common good, values, maintaining a balance among the interests of citizens, society and the state. These include the regulation of social relations in the field of security and protection of the state structure and integrity of the Russian Federation, the legitimacy of the government, fundamental human and civil rights and freedoms, their life, health, honor and dignity. A. A. Yugov also points out this feature "the impact on social relations is in the basis of the constitutional regulation of social relations, the dominant classical types of legal regulations are systematically used - prohibitions, permissions, restrictions and responsibilities [23, 24].

Meanwhile, it is the constitutional sphere of influence on social relations characterized by an all-encompassing nature distinguishes constitutional regulation from other legal regulators. In this regard, it is possible to agree with the opinion of Yu. N. Todyka that "the Constitution establishes the starting beginning of normative regulation of economic, social and spiritual processes. The Constitution reflects the properties, such as its dominion, the supreme legal force, special protection by the state, special procedure for the adoption and amendment, the special role in the legal system" [9, p. 3].

The second characteristic feature of the constitutional regulation - is a special range of subjects. Constitutional regulation of social relations deliberately acts in contrast to other regulators on a wide range of individual and collective subjects of legal relations. Citizens of the Russian Federation, foreign citizens and stateless persons and officials can refer to the individual subjects of impact. Influencing on the citizens of the Russian Federation, foreign citizens, stateless persons, officials, prevent them from committing illegal acts related to their violation, set certain limits of their behavior. Collective subjects of impact of the constitutional regulation of social relations are the people, the state, organizations (governmental, non-governmental, private, public).

Thus, under the term constitutional regulation of the social relations we mean an ordered effect of the Constitution of the Russian Federation and constitutional legislation on the different types of social relations in the sphere of foundations of constitutional order, human and civil rights and freedoms, organization of government and the interaction of the Federation and its subjects, the local government carried out with the system of specific

constitutional means, methods, techniques and constitutional norms. General distinguishing features are peculiar to the constitutional regulation of public relations. The availability of legal tools and subjects carrying out the activity aimed at regulation of social relations can refer to the number of characteristics pointing out the constitutional regulation in the system of legal regulation.

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