

The Concept of Social Human Rights in the Conditions of the Destruction of the Social Sphere

El concepto de los Derechos Humanos Sociales en condiciones de destrucción de la esfera social

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ABSTRACT:

In the article, for the first time in social and legal practice, the problems of convergence of all spheres of society as an imperative to ensure social human rights are considered, and the priority role of the social sphere in the space of which the destructive phenomena of the existence of other spheres of society are concentrated. Particular emphasis is placed on the identity and differences of the concepts "civil and political rights" and "social rights". In this connection, the concepts of domestic and foreign specialists are examined in assessing the legal status of these concepts. The authors believe that social rights also constitute a special group of constitutional rights, equal to civil and political rights and freedoms, which together constitute the essence of a legal social state.

Keywords: integration, social rights, destruction, social sphere, liberal market, quality of life, social guarantees, social state, welfare state, spiritual needs.

RESUMEN:

En el artículo, por primera vez en la práctica social y jurídica, se consideran los problemas de convergencia de todas las esferas de la sociedad como un imperativo para garantizar los derechos humanos sociales, y el papel prioritario de la esfera social en el espacio del cual los destructivos los fenómenos de la existencia de otras esferas de la sociedad se concentran. Se pone especial énfasis en la identidad y las diferencias de los conceptos "derechos civiles y políticos" y "derechos sociales". A este respecto, se examinan los conceptos de especialistas nacionales y extranjeros en la evaluación de la situación jurídica de estos conceptos. Los autores consideran que los derechos sociales constituyen también un grupo especial de derechos constitucionales, iguales a los derechos y libertades civiles y políticos, que en conjunto constituyen la esencia de un estado social jurídico.

Palabras clave: integración, derechos sociales, destrucción, esfera social, mercado liberal, calidad de vida, garantías sociales, estado social, estado benefactor, necesidades espirituales.

The article studies the socio-legal direction. The problems of provision of social human rights have always been discursive among philosophers and jurists. In particular, the most debatable issues include the ones of the material and legal basis of social provision and the level of its correspondence to constitutional norms and needs of human. This aspect of quantification (measuring) of the social essence of the modern Russian state has not yet been

sufficiently studied. At that, the problem of correlation between the social human rights and social responsibilities of a state is among the most topical in the modern social science. These issues are especially topical in the conditions of destruction the social sphere and the whole body of society.

Special attention should be paid to the key issue – the necessity for synchronizing the economic growth and the need of society for just distribution of material benefits. This problem has been studied in foreign literature – especially European – due to development of the concept “social state”. At that, the paradigm of provision of just redistribution of the manufactured products is supported, as well as the idea that social activities of the state have a decisive role in this process. This provision should be considered with special attention – that’s why the authors have to view certain aspects of this problem.

Emphasis is made on the issues of provision of just distribution of assets, as a necessary condition of effective functioning of the system of social provision of society. An important scientific and practical role belongs to studying the mechanisms of formation of the social provision system, determination of tendencies and contradictions in the work of this mechanism.

In the Russian society there is constitutional provision, according to which the state exists for human and for creation of conditions that ensure decent living and the possibility to use one’s labor, rights, and liberties. In this context, the Russian paradigm of “social state” and the level of correspondence of the current practice of the category “socially responsible” state are especially interesting.

It should be noted that the notion “social state” expresses the characteristics that belongs to the legal status of a state, determined by constitution. Such status guarantees economic and social rights and liberties of human and determines the state’s responsibilities for prevention of unjustified social differences. However, “main indicators of social quality” in Russian reality emphasize the urgency of the most important conditions of social provision of human. As a result, there is a vivid contradiction between the social essence of the state and constitutional responsibilities” [1].

Thus, the problem of interpretation of the notion “civil and political rights” and “social rights” and their correlation is very urgent. Analysis of the studied of foreign and domestic authors shows the absence of agreement in evaluation of the legal status of these notions. Two approaches meet: followers of the assessment of civil and political rights as a “first generation” right and social right – as a “second generation” right, and followers of equality of civil, political, and social rights. “The rights of “first generation”, according to A.V. Feoktistov, “embodies and legally established liberal values, and rights of “second generation” reflect the values of socially oriented state, which led to the problem of search for the balance between guarantees of personal freedom, on the one hand, and the state’s right to distribute certain benefits, on the other hand” [2]. The authors support the scholars and practitioners who consider that social human rights come from the very nature of human as a social being and see them as natural human rights (e.g., “first generation” rights”) [3]. Based on this concept, the social rights constitute a special group in among constitutional rights and liberties, which is equal to civil rights and liberties. Thus, there is responsibility of the state to protect social rights of human, as well as civil and political rights, and to protect those who cannot ensure their existence in society independently.

Society’s entering market relations with the dominating role of private property led to destruction of the whole social sphere of society. Social differentiation and material inequality appeared in a large scale, as well as polarization of interests of social groups. In the modern conditions of social development, a typical phenomenon is “urgent instability of social and structural entities, emergence of a large number of marginal groups, and underdevelopment of a lot of social subjects that are not related to production” [4].

The social sphere, in which social processes take place, is in constant interaction with the

economic, political, and cultural & spiritual spheres. In the process of interaction of all spheres of society, social security, social protection, and the corresponding level of socio-legal protection is ensured, as well as reproduction of social subjects that create social integrity. This process is not unambiguous. "Social subjects that are new for our society (entrepreneurs, private sellers, etc.) did not possess any property in recent past and made the initial accumulation of capital in shadow economy and among criminal structures" [5].

These phenomena show that in the conditions of destruction of the social sphere, when the possibility of self-regulation of the social processes has reduced, there's a growing need for optimal state decisions. That's why the only institute that can perform the functions of integration of all spheres of society could be only the state. The top-priority task of state is creation of the legal field and the mechanisms that set the rules and principles of behavior and interrelations of all social subjects that constitute the society, provision of social protection, support for the handicapped, just distribution of income, social justice, and real participation of people in management of society and political life.

In this aspect, assessment of the Russian reforms that are conducted on the basis of the liberal concept of the market system is very interesting. According to most specialists, stable legal basis of economic interaction in Russia is just forming. This creates the system of economic relations and market infrastructure that work in the conditions of absence of convergent mechanisms, lack of coordination of elements, and unjust distribution of added value. This means that liberal market in Russia cannot ensure just ratio of market origins and the state system of social provision. Creation of the effective market mechanism requires a lot of year – countries of the West spent centuries to achieve it. In this situation, the production and distributive mechanisms of the state cannot function effectively. Thus, there should be the primary task of providing the well-balanced growth of basic directions of reforms – economy, social sphere, and culture.

In the modern Russian society, state is not an exclusive owner of production means. This leads to a special model of social state, within which it is difficult to build a fair ratio of market origins and state social support. Nevertheless, redistribution of the manufactured products for protecting vulnerable groups of population is execution of the constitutional responsibility of the state and a measure of its social essence. Specialists emphasize that "the main task of state is to distribute the benefits in a fair way, provide services, and ensure rights of unprotected groups of population" [6]. However, we think that this problem cannot be solved by the liberal concept of socio-economic development of society. There's unjustified disproportion in material provision of citizens in Russia. According to the Auditing Chamber, 71% of the country's citizens possess appr. 3% of property, while 5% of the rich possess 72.5% of property [7]. There could be no positive social dynamics with the five-fold excess of the norms of exploitation of labor, as compared to the countries of West Europe. The small share of state's participation in redistribution of created gross product led to the wages that are much lower than the wages in a lot of European countries [8]. As is seen, the main indicators of social quality in Russian reality emphasize the lack of main conditions of social protection of human. As a result, there is a vivid contradiction between the social essence of the state and constitutional responsibilities. In such conditions, the state cannot implement the balance of economic possibilities and volumes of guaranteed social benefits.

A striving for balance between the market origin and state social support has always been a central policy of all European countries – especially of those that stick to the concept of "state well-being". This concept has been often changed in search of an acceptable model of economic development and new features of the nature of social state, offered by real practice. E.A. Lukasheva states, "...social state is not static. Being in constant movement, in the constantly changing conditions, the concept of social state requires reconsiderations and adaptations" [9]. At that, opposition between the followers of the concept "social state" and those who support the liberal concept on the necessity for "narrowing down the social activities of the state and the group of people subject to social protection" continues [10]. Arguments of opponents of the

concept “socially responsible state” lie in support for the neo-liberal character of economy in the conditions of globalization, in which the role of state should be brought down to the minimum.

It should be noted that this tendency on the priority of liberal economy characterizes the situation in the Russian society on the whole. Even the specialists who do not support the concept “social state” criticize the neo-liberal model of economic development. For example, creator of the European fund of social quality – A. Walker – notes that in the conditions of neo-liberal globalization, “global competition means that taxes and social expenditures should be reduced, and the traditional formula of society’s well-being is not good for the world in which instabilities and differences are norms of life” [11]. Despite such opposition of two concepts, European countries strive to balance market origins and state social support [12].

For Russia, this problem is much deeper. European countries required centuries to implement the concept of social state – and it was constantly corrected under the pressure of social movements. In Russia, this problem is far from setting. The problem of balancing economic development and state social support in Russia concerns another aspect – synchronicity of the basic directions of reforms: economic, social, and cultural [13]. Without solving this problem, it is impossible to ensure the balance of economic development and state social support [14]. The necessity for provision of synchronous development of the key directions of reforms is dictated by the logic and scales of social transformations in the course of democratic structure, for which modern Russia strives [15]. Besides, provision of harmonic development of all spheres of society is in the context of the offered national idea – creation of country’s competitiveness.

For “competitiveness” does not suppose only the economic aspect. The social, intellectual, and cultural components are also very important [16]. Russia has enough potential for implementing the national idea; it requires the desire to use intellectual power and resources of the nation for ensuring synchronicity of the factors that unite the idea of “competitiveness”. It is obvious that it is the state’s prerogative. In the modern globalizing world, the growing social tendencies could be overcome only by increasing the share of state means of production and responsibility of state for creation of regulating mechanism that set market relations into civilized framework. As the state has to express the national interests, society requires state regulation of development of economic spheres. “Even during the time of the highest development of economic freedom,” writes G. Pipes, “government interfered with economic and social matters: passive state is a mythical notion – like primeval communism [17]. The regulating role of the state will be a decisive factor of strengthening the material basis of society, and mass conscience will be dominated by the idea of society’s transition to a new qualitative state [18].

We think that it is necessary to use the experience of European countries in provision of the balance of economic possibilities of the state and social guarantees of citizens. It is obvious that the liberal and democratic methods, which were used in Russia in the past, differ from the European concept of social development which supposes wide democratic and pluralistic origins in the economic sphere and spiritual life.

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[Index]

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