

Kuyanova A. V., Yuritsin A. E.

CIVIL SOCIETY IN RUSSIA: TOPICAL POLITICAL AND LEGAL PROBLEMS OF FORMATION AND DEVELOPMENT

*Kuyanova Arina
Viktorovna,
c.j.s. (PhD in law), Senior
lecturer of the Chair of ad-
ministrative law and admin-
istrative activity of inter-
nal affairs bodies at Omsk
Academy of RF MIA;*

*Yuritsin Andrei
Evgen'evich
c.j.s. (PhD in law), Senior
lecturer of the Chair of ad-
ministrative law and admin-
istrative activity of inter-
nal affairs bodies at Omsk
Academy of RF MIA.*

Proceeding from the position that without a developed civil society it is impossible to build a constitutional democratic state in the Russian Federation, the authors have identified the essential signs of civil society.

They argue that an indicator of the maturity of civil society is the existence of a class of owners; only economically free citizens are able to provide effective, independent, real control in public administration.

The need to limit state power by civil society and the civilized distribution of national income between citizens of Russia are noted in the article.

Keywords: civil society, constitutional state, state, civil society signs, citizens, human rights, public associations, democracy, legal consciousness, legal culture.

True personal liberty is possible only in a democratic society, where not the political power, but the society itself in priority to the State. It is clear that the transition to such a society is a historically slow process. It is associated with the formation of a civil society.

Formation of the civil society in the Russian Federation is inextricably linked to the establishment of a constitutional state. Civil society in a special way conjugated in its development with such phenomena, as citizen, the state, law, politics [2, 6] is possible only in a democratic political regime, so it cannot function properly in totalitarian and authoritarian regimes.

In the definition of the concept of "civil society" G. G. Diligenskii puts the essence of "relations of autonomous individuals (citizens - voters) and autonomous social entities (citizens - political parties) who function independently from political power and are capable to influence on it" [6, 5]. This concept characterizes a specific stage in the development of human society; it cannot be reduced only to a totality of non-state organizations, and especially to organizations in opposition to the State. Taking power by the last often leads to establishment of even stricter state regimes [14, 23].

Ideally, civil society is "a society, in which the State and society form two clearly separated spheres, at that, the State has a purely instrumental nature, controls individual interests in their extreme manifestations, it itself is under control of the institutes that have a base" [4, 214]. A developed civil society contributes to the awakening of the self-consciousness of its members, is a fundamental prerequisite for genuine democracy. Its primary task is the most complete satisfaction of the material, social and spiritual human needs, development of social activity of subjects. It is no mere chance that in the Message of the President of the Russian Federation noted that "...we need to support the growing desire of citizens, representatives of public and professional associations, political parties and business class to participate in the life of the country..." [12].

In our opinion, the most essential signs of civil society are: self-governance; pluralism and freely forming public opinion; guarantee of the rights and freedoms of man and citizen enshrined in the RF Constitution and current legislation; implementation of life in civil society on the principle of coordination; competition of its constituent structures and different groups of people; information awareness, the real implementation of the human right to information.

Modern Russia is at initial stage of civil society development, this is manifested in a rather weak development of its most important institutes: political parties and public associations, independent media, private property and market economy, lack of social responsibility among many citizens etc. In this connection, it is necessary to draw attention to the current political and legal problems of formation and development of civil society in modern Russia.

Building of a developed civil society is impossible without recognition of freedom as the most important absolute value in each person's life. Only free State can ensure the security and well-being of its citizens. In turn, liberty cannot survive in a society that does not strive to justice. Such a society would inevitably tend to split between those whose liberty is materially supported (they are in absolute minority) and those for whom it is synonymous with extremely low standards of living (vast majority). The consequence of this split can be either social convulsions, or political and economic dictatorship of a small privileged class.

Indicator of the maturity of civil society is the existence of a class of owners. The greater the number of people-owners, the stronger civil society, the less the sphere of state domination. Many experts believe that the proportion of persons belonging to the "middle class" shall be 60-70% of the population (according to some estimates, the proportion of middle class in Russia is no more than 8-10% of the total population). These persons are the least dependent upon the State, since they are financially autonomous and independent. In modern Russia, where budgetary scope is very significant, the only source of material existence is wages. So, the talk about the mass nature of civilian relations can be very tentative.

Material foundation of civil society is formed from small and medium-sized business that in developed countries is up to 70-80% of the economy. Its representatives mainly constitute the so called "middle class", which is only slightly dependent upon the State. Economic organization of civil society is civilized market relations, which are impossible without the development of individual entrepreneurship aimed at generating income.

In today's Russia small and medium-sized enterprises are often absorbed by larger enterprises, which are often linked to the State apparatus or financial and industrial groups. That is why they often do not stand tax and financial pressure by the public authorities. The consequence is the destruction of competition in the sector of "small" economy, as well as consolidation of monopoly in the field of economic and political power. Freedom of enterprise in the Russian Federation is declared, but really is not exercised by public authorities because of the dictat of corrupt bureaucratic apparatus.

Most acute in the moment in the social sphere is the problem of mass poverty – preservation of miserable existence occurs among almost one sixth of the population. At the same time, it is axiomatic that only economically free citizens are able to provide an effective, independent, real control in the sphere of public administration.

Civilized allocation of national income between the citizens of Russia should be a priority of the state policy. In the Russian Federation, the ratio of wages paid to

10% of the highly-paid layers to the wages of the rest of the population in 1992 was 16:1, in 1993 – 26:1, in 1995 – 29:1. For comparison, in various countries this ratio is from 5:1 to 8:1, and 4:1 in Sweden.

As for material inequality among the population – 1% of the population owns 71% of all cash in the country [11, 5]. And after all, G. V. F. Hegel noted that in cases where the gap formed between an untold wealth at one pole of society and poverty on the other, the life of many people became below the required level of existence. This, in turn, leads to the loss of feeling of ability to ensure existence by own labor and engenders parasitism and social dependency [3, 234].

Efficiency of the process of formation of political foundation of civil society in our country is markedly reduced due to the presence of such negative phenomena in society as legal nihilism, low level of legal consciousness and legal culture; significant scale of corruption that has hit our state; distrust of citizens and society as a whole to the government, etc.

Experts of the Institute of Psychology of the RAS having estimated the changes in psychological state of Russians from 1981 to 2011 concluded that over the past 30 years Russians have become angrier, more conflictual. In amount of killings, Russia nearly 4 times exceeds the United States and about 10 times – the countries of Western Europe [5, 7]. It appears that one of the factors that has led our society in such a state is ideological shortcomings of the State. One should realize that the competent authorities of the State must put a durable barrier against advocating violence, anger, aggression in the media and on television.

Civil society is always a democratic society. The difficulties of the emergence of democracy in our country can be attributed to “a lack of political culture of democratic (civil) type, since both our politicians and ordinary citizens and institutes largely adhere to the imperatives of undemocratic political culture rooted in the past” [10, 18].

The current legislation of the Russian Federation through specification of the fundamentals of constitutional order of the Russian Federation and constitutional (political) rights and individual freedoms significantly reduces the mechanisms for their implementation. A striking example is the adoption in June 2012 of the Federal Law “On Responsibility at Rallies, Demonstrations, Processions and Picketing” [13]. It is obvious that financial levers, which provide for significant fines, hamper the exercising of not only political rights and freedoms of citizens of Russia to hold rallies, demonstrations, processions and picketing, but also impede the process of democratization the political life of society by citizens and their associations.

Another important issue that needs addressing is the need to restrict state authority by civil society. The importance of people's monitoring over officials and rulers of the State was mentioned in the works of Aristotle, who considered it one of the conditions for political stability and prosperity of the State [1, 547-548]. According to fair opinion of Sh. Montesquieu, "every person, who has authority, is inclined to abuse it, and it goes in that direction until it reaches the limit" [9, 289]. Therefore, ideally, the power must always have a certain barrier that restricts its arbitrariness. Such an effective barrier is a developed civil society. It is known that "in most cases the restriction of power by law has a high price of hard struggle between the various elements of society" [8, 204].

Civil society is intended to become one of the most important levers in the system of "checks and balances" limiting the striving of political power to the absolute domination. It has to protect citizens and their associations from unlawful interference of public authorities. To perform this task, it does have a lot of means: participation of citizens in elections and referendums, acts of protest or support etc. At the same time, the broad involvement of citizens in the solving of state affairs must be accompanied by preliminary training of people about the rules to conduct in a civil society, advocacy of civil responsibility for the commission of certain socially significant deeds.

Development of civil society in Russia should be carried out simultaneously with the strengthening of the institutes of state power, weakening of which, as well as the underestimation of organizational state foundations, is fraught with negative consequences. But if the state power does not work for the interests of social development, focuses mainly on servicing individual privileged groups, bureaucratic apparatus, it creates the conditions for a conflict of interests of society and government.

Formation of civil society in Russia should be encouraged. However, "the development of civil society should be not spontaneous, but gradual and strictly regulated by the State with the endowing public organizations growing powers in the administration of the State along with the developing of legal and political self-consciousness and responsibility for the country and for its future" [5, 49]. Civil society, being the highest form of self-realization of individuals, strives for perfection in the fairway of the economic, political state development, growth of culture, self-consciousness and well-being of citizens. Building a constitutional democratic state in the Russian Federation is impossible without a developed civil society, since only free, responsible, initiative, and concerned citizens are able to create the most rational forms of human society aimed at achievement of social justice and public compromise.

References:

1. Aristotel'. Policy [Politika]. *Sochineniya – Oeuvre, in 4 volumes, vol. 4*, Moscow: Mysl', 1983.
2. Bessonova V. V. Civil Society: Towards the Question on the Historical and Philosophical Maturation of the Definition [Grazhdanskoe obshchestvo: k voprosu ob istoriko-filosofskom sozrevanii definitsii]. *Gosudarstvennaya vlast' i mestnoe samoupravlenie – State Power and Local Self-government*, 2013, no. 3.
3. Gegel' G. V. F. *Philosophy of Law* [Filosofiya prava]. Moscow: 1990.
4. Gellner E. *Conditions of Liberty* [Usloviya svobody]. Moscow: 1955.
5. Grudtsyna L. Yu. Development of Civil Society in the Aspect of Convergence of Private-law and Public-law Foundations of Russian Law [Razvitie grazhdanskogo obshchestva v aspekte konvergentsii chastnopravovykh i publichno-pravovykh nachal rossiiskogo prava]. *Administrativnoe i munitsipal'noe pravo – Administrative and Municipal Law*, 2013, no. 5.
6. Diligenskii G. G. What do we know about Democracy and Civil Society? [Chto my znaem o demokratii i grazhdanskom obshchestve?]. *Pro et Contra. Grazhdanskoe obshchestvo – Pro et Contra. Civil Society*, Moscow: 1997.
7. Wicked – from Despair. Opinion of N. Gubenko [Zlye – ot otchayaniya. Mnenie N. Gubenko]. *Argumenty i fakty – Arguments and Facts*, 2013, no. 51.
8. Korkunov N. M. *Lectures on the General Theory of Law* [Lektsii po obshchei teorii prava]. St. Petersburg: 1914.
9. Montesk' e Sh. *About The Spirit of Laws: Selected Works* [O dukhe zakonov: Izbrannye proizvedeniya]. Moscow: Gospolitizdat. 1955.
10. Petrova S. V., Shustova L. I. Civic Culture as an Immanent Characteristic of Modern Society [Grazhdanskaya kul'tura kak immanentnaya kharakteristika sovremennogo obshchestva]. *Obshchestvo i pravo – Society and Law*, 2006, no. 2.
11. Reason to be Proud [Povod dlya gordosti]. *Argumenty i fakty – Arguments and Facts*, 2013, no. 51.
12. Message of the President of the Russian Federation Vladimir Putin to the Federal Assembly. *Rossiiskaya gazeta – Russian Gazette*, from December 13, 2013.
13. *Rossiiskaya gazeta – Russian Gazette*, from June 09, 2012.
14. Soshnev A. N. Social Health for the Social Purposes of Civil Society [Sotsial'noe zdorov'e v sotsial'nykh tselyakh grazhdanskogo obshchestva]. *Sotsial'noe i pensionnoe pravo – Social and Pension Law*, 2013, no. 2.