

Legitimacy in Modern Russia

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Abstract: This article observes the situation with legitimacy of Russian state authority nowadays. The author is analyzing the reasons of the type of legitimacy that exists now in Russia. He is proving that the type of modern state authority is caused by the traditional Russian mentality.

Key words: Legitimacy • State authority • Legal culture • Mentality

INTRODUCTION

The issue of the legitimacy of state authority is not new to the legal science. On this issue there have been written many works by both legal-scholars and political scientists, these two categories consider the problem from different points of view. In our opinion, the interpretation and approach to consideration of this problem is more dependent on the ideological position of the author, on the type of law prevailing in particular society, on national characteristics and at last but not the least on the level of economic development and living of society in a particular historical stage of development. Therefore, we will try to analyze the phenomenon of legitimacy of state authority in the modern Russian statenot in negative-ironic way which has already become familiar, but from the point of view of the root causes of the formation of exactly that type of power that exists at the moment in Russia.

Thus, legitimacy is usually determined as the property of state authority, meaning its popular support. Professor of the theory and history of state and law department of the Southern Federal University, I.A. Ivannikov believes that, ideally, the state government should be legitimated both in its establishment and in the way of realization of its duties [1]. This variant is, of course, perfect, but it is extremely hard to achieve. And in our opinion it is absolutely not binding. We consider that government can, in principle, exist only if people have some reasons to obey, even against their wishes, and this means that the “controlled”, for some reason, find it necessary to consciously support the “manager”. As the awareness we propose to consider the behavioral implementation of imperious guidelines in this

situation. “Requirements of the authorities should be based on the motives that are certainly recognized by subservient...”[3]. Thus, if the government does not meet the effective resistance, moreover, if its requirements are not ignored by the population but are performed, then, regardless of the motives of such a performance, we propose to consider such an authority as a legitimate authority.

Classically, political science identifies three main types of legitimacy: traditional, charismatic and rationally-legal (the concept of Max Weber). Rationally-legal one, by default, is a priority one, as it is based on “qualitative” acceptance by population of the existing form of government. We will not go into the philosophical debate now about that the acceptance, in our view, is basically impossible without substantial and qualitative understanding of the essence of power (and it does not matter that in the first two types it is largely based on psychological factor), we are only trying to explain why the primacy and absolute “ideality” of the rationally-legal type of legitimacy can not be considered as an axiom, particularly for modern Russia.

It would be likely to start with an interesting fact. In 1998 our country carried out a sociological research on the subject of what the image of the desired power in the state is. It turned out that as a future president the majority of Russians would like to see a “national leader, capable of providing fundamental function of the state on the basis of fundamental values shared by the majority of the population”. Note that the description of subjective type of power was not mentioned in the survey! Participants themselves formed the variant in which exactly the head of state is evaluated. So we can presume

the fact that the population of Russia still prefers exactly a person in the management, but not a collegiate body, and the population believes that a particular head of state in a greater extent determines the life and policy of the whole country. Thus, we believe that, while speaking of government support to the Russian population, we must in fact appreciate its support or opposition to a particular person. From the mentioned it follows, that at least a charismatic type of legitimacy will always be inherent in our country, because Russian people empower themselves and their leader with the positive and negative qualities, by means of which they either give him the weight in their own eyes or deny it. Also, in our opinion, it means, that in order to ensure and to make recognizable the public authorities among the population, the public authorities should only support (or properly create the appearance of such support) shared by the majority of the population fundamental moral values, that are the core part of the of the Russian legal mentality. Easier speaking, the authorities must establish such normative legal acts, which are aimed to achieve understood and shared by the people goals. But if the situation with the understanding is more or less simple - it is only necessary to improve the legal technique of lawmakers – then with the goal-setting it is more difficult - it is necessary to essentially understand the concepts of the legal mentality and its underlying fundamental legal and moral values.

Here it will be quite appropriate to clarify the sense of the phrase about “maintaining visibility”. For this, it is possible to apply the typology of legitimacy, offered by the famous French political scientist Jean-Louis Chabot, who classified the so-called technocratic legitimacy, according to which “the policy assumes the character of crafts that requires some knowledge and experience”. Dominion as a “craft” is defined by “means of access to power” and by “the content of its implementation process”. At different times of humans history these parameters changed from the force, as priority a way of achieving power, to the art of possession of not only weapons and strategic thinking, but also of the word, and later of cultural, oral and written communication (rhetoric) based on the knowledge of philosophy, history and law. This approach to the legitimacy of state authority does not reflect the essential characteristics of recognizing the power by the population, but it reflects only the reasons for which it can achieve such recognition. The French scientist also highlights the ideological and ontological legitimacy, defining the first as consequence of that the government uses subjective views of society about the desired social order, the second arises when

political authority corresponds to the objective order that defines the human and social reality. Ontological level of legitimacy, obviously, lies in the degree of conformity to the “deep order of being that person feels innately” [2]. Thus, the purpose of government is to create an ontological form of legitimation with the help of technocratic legitimacy as a method and ideological legitimacy as the first step. For this, on the first level it is necessary to be based on objectively established values of the society and create on their basis the ideology, which is the only one capable of creating an ontologically objective form of support. Let us remember Machiavelli's famous treatise “The Sovereign”, in which the unconditional patriot of Italy, while speaking on the theme of power, says more about the political tactics: how to grab and hold on to power, how to expand the limits of the sovereign's influence. “It is not necessary for sovereign to have all the virtues, but there is a direct need to look like having them[4].

We consider that described by the French political scientist “craft”, in proper way understood by Russian managers, would be a good variant for modern Russia. The level of legal culture does not allow the majority of the population to estimate truly literate normative legal acts, to analyze the essence of taken legal arrangements to achieve certain long-term objectives. We, unfortunately, have to say, that in legal consciousness in modern Russian society dominates undoubtedly the psychological component, and the lack of basic legal knowledge often does not allow to understand the meaning of the read normative legal act. Therefore, the legitimate at the present stage will exactly be the power that more literately “plays” with the basic archetypal legal settings, puts them as the basis for a normative legal framework.

Thus, we believe that the basis for the “craft” of a legitimate Russian policy should be the reliance on the basic fundamental values of Russian people. As the first of them we propose to consider the collegiality, the perception of the individual as a part of a team. And the perception is not imposed but archetypal, heartfelt and held by Russian people for many centuries. We do not need to strive for the American type of pseudo-patriotism; Russian people are truly connected with love for their country by the generations of ancestors, traditions and customs. Throughout the history of our country the greatest legitimization received the power that was able to form an idea, leading the country either to the “bright socialist future”, or to the another one, always clear, bright, and – what is the most important - OVERALL

(though hardly achievable at the first glance) goal. That is why our in country the liberal-individualistic values, imposed by the classical concept of democracy, are hardly acclimatized.

As the next certainly fundamental value, which allows the authorities to achieve the true support of the population, we propose to consider the truth and goodness as the synonyms of the law. The authority which creates positive law, which is contrary to traditional values of the society, will be perceived not otherwise than a satrap, limiter, and the only reasonable and organic reaction to it will be the mistrust and unwillingness to support it. And it is precisely in the fact that, considering the Russian law, it is necessary to begin with not the formal concepts of justice and equality as its main essential characteristics (as it is customary in the Western legal doctrine), but on the primordially Russian traditional notions of truth and goodness. Yes, perhaps as a result, we will get that in the West is called legal nihilism. But ... if you take a thought— who else, other than a representative of the Western legal doctrine, has coined the term “legal nihilism” and what did he assume as the ideal when he conceived it? Obviously it was not a traditional Russian, and now the Russia’s community. In fact we define nihilism as a departure from the generally accepted norm, as a negative strain of legal consciousness, which does not allow to fulfill the basic social purpose of law - to settle social relations. And we must bear in mind that the traditional interpretation of legal nihilism the Western understanding of the law is considered as a norm, which is diametrically different from Russian one. And who said that if we perceive Western ideal, if we start living according to this scheme, and if we get away from the so-called negative strain, Russian law will become more effective and perfect? Let us remember the 90 years of the 20th century and the introduction of democratic and the liberal reforms in Soviet society unprepared for that. We got kind of bi-juridical system - useless inoperative positive law and real life “po ponyatiam” (according to customs). The result is still memorable. We do not call the authority to paternalism and flattering policy like “it will be as you want”, we just consider that the real support will get the government, which will can and will take into account the consideration of the very “collective unconscious” and of the psychological aspect of justice, which play a great role in the minds of the Russian people, in the process of law making.

Thus, as the fundamental values of Russian society having the validity to legitimate state authority, we propose to recognize first of all the collegiality (as a priority of the collective principle), the desire to see the bright goal and strive to achieve it as the peak of the development of society, and the presence of the single head of state with charismatic (to Russian society) qualities and who is loved by people, we stress, - that it is a presence of loved, but not only respected by the majority of the population head of state.

CONCLUSION

Based on the foregoing, we believe that for Russian state the model of legitimation of power proposed by D. Held is, in principal, more preferred. D. Held identified seven options for legitimation: the consent under the threat of violence, legitimacy by tradition, consent by apathy, pragmatic submission (the support in sake of personal gain), instrumental legitimacy (confidence that this mode can serve as a tool to implement the idea of the common good), the normative agreement, the ideal normative agreement. The author considered only the last two types as a genuine legitimacy. But we, using this concept, will disagree with Held, at least while talking about Russia. In our opinion, the traditional Russian type of legitimation is the support of the government, which can realize an idea of the common good (and is able to articulate this idea adequately for the perception of the majority of the population), and, in the context of our country, it will be absolutely a genuine and purely-rational.

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