

Role of Civil Society, Mechanisms of Future Development and Regulation

Ludmila J. Grudtsina

Department of Civil Law Finance University under the Government
of the Russian Federation 125993, Russia, Moscow, pr-kt Leningradsky, 49

Abstract: In the present article author examines theoretical and practical questions of civil society development in Russian Federation and global world. Author gives personal opinion on the role of civil society in the modern globalized world and in Russian Federation specifically. Author explains process in the field of active development and implementation of modern democratic mechanisms. Author explains why it is so important to give special attention to civil society development and adaptation to the new globalization movements that are actively going in Russian Federation nowadays. Author examines opinions of different scientists, lawyers and experts, give personal opinions on some views. In the conclusion of this article author, based on her experience in human rights protection and scientific researches that were conducted in different research centers, institutes and universities presents some personal ideas on possible changes that can be done in modern Russian Federation to help civil society development and integration.

Key words: Society • Civil society • State • Law • Private law • Public law • Globalization • Russia • Russian Federation

INTRODUCTION

In the modern globalized democratic world existence and development of civil society is unthinkable outside of a complex system of social relations and without interest (weather direct or indirect) of the state. State participation is often done through adoption and application of private and public laws.

In any civil country of modern globalized world civil society plays a critically important role. Emergence of modern civil society is closely connected with the development of private property which became an incentive for the activity of modern globalized person. Interest of the person for manufacturing development and services providing is an effective basis for the middle class emergence [1].

The political system of the state as well has impact on civil society. Quality of political system mechanisms at any given time of state and society development depends on the model of civil society.

Factors, that influence development of civil society include: historical background, level of culture, geographical conditions and many other.

Russian Federation relatively recently became an open country and a part of open globalized world. Many things, that are normal in another countries for centuries are only developing in Russia, including powerful civil society.

Research Methodology: In the present article author present summery of conducted research in the field of Civil Society Development and Regulation in Russian Federation and other post-Soviet countries, as well as western countries.

In the introduction author formulated the research problem. Based on personal experience in the field of human rights protection and using accumulated empirical base author conduct a thorough research.

Collected materials gave an author opportunity to focus on the research process and to draw conclusions that would reflect the real situation in the best possible way using: introduction- hypothesis, deduction- predictions, observation- nest of predictions, etc. was given.

Corresponding Author: Ludmila J. Grudtsina , Professor at the Department of Civil Law of the Finance University under the Government of the Russian Federation. Tel: +7 (903) 125-2855.

RESULTS AND DISCUSSION

To better understand what "civil society" is, let's take a look at the concept of it. First of all, any interpretation of the "civil society" concept is intended to relate to the concept of "state". This is mostly due to the reason that first term arises in historical and theoretical analysis of another. Therefore category of "state" always requires explanation: whether it means a system of government, administrative staff, institutionally organized geopolitical space, institutionally organized population, or all of it together in the concept of "development of ideas in its differences".

The insight that civil society is a separate sphere from all realms, that is to say separate from state and economy (as well as, naturally, from family) was not formulated until the 20th century [2].

Otherwise we have to speculate about the sentences in the spirit of "civil society has to look after the state" [3] that was for example done in regard to the Hegel concept of civil society by Russian jurist, specializing in the theory of state and law P.I. Novgorodcev. It is also very important to remember that terms "society" and "civil society" are not equal.

For purposes of current research a key value plays Hegel's view on civil society in the Philosophy of Right as the sphere of private, individual interests, which, in certain circumstances acquires independent value in relation to the field of public (universal) interests.

Secondly, differentiation of civil society from the state (as a sphere of political powers and administrative powers) and enforce individual rights of citizens, protecting them against arbitrary administrative interference and providing opportunities to influence on empowered institutions. Therefore individual rights and means for their realization should be seen as an important element of civil society in the modern globalized world.

Thirdly, reference to the possibility of achieving individual goals only "by interaction with others" that is in presence of the solidarity relations that serving as an integral part of civil society. Thus, according to Hegel, the scope of individual interests, law and solidarity are the categories required to describe the civil society.

Perhaps the most profound experience of creating a systematic theory of modern civil society belongs to American researchers Jean L. Cohen and Andrew Arato, who dedicated to this problem a fundamental research work entitled "Civil Society and Political Theory" [4].

Authors, emphasizing fundamental character of Hegel concept, leaning and at the same time putting to

detailed critical analysis theoretical views of known scientists and philosophers, offer own theory and plan of West countries civil society reconstruction [5].

It is also important that many of their ideas are widely and actively used in state-building and the construction of "political technologies" in countries of Eastern Europe and the former Soviet Union [6].

Some authors define civil society as a sphere of social interaction between economy and state, consists first of all from most areas of close contact (family), associations (particularly voluntary), social movements and forms of public communication. According to the authors, modern civil society is created through self-construction and self-mobilization. It is institutionalized and generalized through laws implementation and change, if done wisely it can effectively stabilize social differentiation and assist in civil society development.

To determine boundaries of a modern civil society (in social life), the following methodological approach is proposed. First of all, they base on the opinion that civil society means just that area of modern life of the West, for which not only administrative powers are logical, but also economic mechanisms creates more dangers. Second of all, insist that proposed by Hegel dichotomy model of "state - society" (and adequate to social processes in of XIX century) is not suitable for the study of modern civil society of the West. Third of all, they use the well-known in science tripartite model of Antonio Gramsci [7] (also used by Talcott Parsons), which establish distinction between civil society and the state and between civil society and economy as well. Recognizing priority tripartite model of Antonio Gramsci authors emphasize methodological importance of concept that market economy and state are integrated through mechanisms organized by money and authority and that civil society, in contrast to them is coordinated through communicative means of consented relations.

Noting that dichotomous model of "state - society" is still used "by some Marxists, especially neoliberals, neoconservatives and today's heirs of utopian socialism" J. Cohen and A. Arato point out that fundamental point of their concept is supremacy of the three-party civil society. However authors complicate the tripartite model. They feel it necessary to distinguish civil society from political society, which is a sphere of life for parties, other political organizations, public policies entities (in particular, Parliaments) and from economic society as well, which is composed of organizations engaged in production and distribution of goods and services.

Authors, or in other words- subjects of political and economic communities are directly involved into the state mechanisms and economy, their task is to control relevant field and manage it. They cannot afford to put strategic and instrumental criteria dependent upon the character of civil society (reasonability, value-oriented) integration in open communication.

Even in its parliamentary incarnation public sphere of political society requires significant restrictions in communication process. At the same time there are no such restrictions in the civil society. In turn, politically active part of civil society is not directly related to control or seizure of state authority, but influence through democratic associations and open discussions in intellectual circles. However, such a activities are inevitably inefficient, though widespread.

To solve such contradictions, J. Cohen and A. Arato offer the model:

Political society- State- Civil society
Economic society- Economy- Civil society

According to J. Cohen and A. Arato, political and economic society appear here as areas of intermediary spheres, through which civil society is intended to influence on political, administrative and economic processes. Authors feel necessary to caution against putting civil society in to opposition to the state and economy. This relations may become very much different only when institutions of economic and political societies are beginning to isolate decision-making processes and those who adopt such decisions. This is especially true in regard to the impact of social organizations, specific initiatives and public discussion.

J. Cohen and A. Arato not only draw the line between the civil society and the political and economic society. They insist on a strict distinction between civil society and public at large. In particular, by their definition, civil society acts as an integrative subsystem of society and consist of standard timely legal components and principles of association.

State is the reality of moral idea, - moral spirit of an explicit, clear, substantial will, which thinks and knows itself and does what she knows and as she knows it" [8].

In other words, political society and economic society is a sphere of civil society and not independent societies, but allegedly in direct contact with civil society.

CONCLUSION

It is important to point out that citizenship as a historical legal category that has emerged as a formal expression of belonging of the citizen to one or the other state has been formed as a result of a gradual process building of relations between the state and of man [9] and citizen is a "natural" unit or atom (although even in the institute of citizenship there is a certain "conventional" element). On the other hand, members or units (atoms) of our international order are the states. However, the state cannot in principle be the same "natural" element, as a citizen: after all, there are no natural borders of the state, they are changing and can only be determined through the application of the principle of the *status quo*.

Generally, in Russian Federation civil society has all needed instruments to exercise powers that reasonably belong to them, laws, that were adopted in past 10-15 years are very close in its nature to the generally recognized principles and norms of international law. However many laws still contain a lot of inaccuracies, inconsistencies and causes some misunderstanding in their application in practice [10].

In the modern century of globalization it is important to make more efforts that would affect civil societies of different countries. Norms of international law should be more widespread, more active efforts must be made to make certain that international laws are appropriately exercised in countries, especially at zones of armed conflict.

It is also very important to use means of national regulation. In modern Russian Federation there are number of laws that do not allow entirely positive development of civil society.

Among such laws are federal laws regulating questions of small business taxations and related questions of tax reports hand over. Small business should be allowed to pay less taxes to stimulate self-employment and be permitted to hand over reports only once a year, opposed to current practice when self-employees pay unreasonable, unrealistic and unfair taxes and hand over even zero reports quarterly.

Provisions of current laws, regulating lawyer's activity in Russian Federation are also questionable. Lawyer profession is not regulated enough, in practice only lawyer's activity in criminal prosecutions is regulated by state. In other areas anyone, even one that do not have any legal education can practice law.

Author believes that such practice is unacceptable, law need to be changes to allow only licensed lawyers to practice law and give them special powers.

Even more questions arise in application of laws regarding municipal authorities. It would be reasonable to say that in many cases members of municipal boards do not have any responsibility for their actions. While not conducting criminal offence, municipality do “stupid” decisions (usually in municipal property management). Author believes that it is absolutely necessary to make municipal authorities responsible before the state and reinforce law of Russian Federation to include real mechanisms of members of municipal authorities termination and decision pausing.

REFERENCES

1. Grudtsina, L.J. and A.A. Galushkin, 2013. Questions of modern civil society development in Russian Federation // *World Applied Sciences Journal*, 25(5): 790.
2. Zinecker, H., 2011. Civil Society in Developing Countries- Conceptual Considerations // *Journal of Conflictology*, 1(1): 4.
3. Novgorodcev, P.I., 2000. Kant and Hegel and their participation in law and state, pp: 330.
4. Cohen, J. and A. Arat, 1994. *Civil Society and Political Theory*, MIT Press.
5. Verdiyev, G.V., 2011. The principle of integrity in general provisions of the civil code of the Russian Federation // *Pravovaya Initsiativa*, 1: 4.
6. Novikov, S.L., 2011. Questions of International Legal Protection: Practice, Perspective // *Pravozashitnik*, 4: 144.
7. Gramshy, A., 1999. Prison notes, pp: 72.
8. Parsons, T., 1971. *The system of modern societies*, Prentice-Hall, pp: 270.
9. Grebennikov, V.V., N.N. Marchuk, A.A. Galushkin, *Organizational and Legal Bases*, 2013. of the Nationality Institute and its Place in the System of Rights in Russia // *World Applied Sciences Journal*, 23(9): 1219.
10. Smirnov, B.A., 2011. Modern Instruments of Human Rights Protection // *Pravozashitnik*, 2: 57.