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Problems and Prospects For Forming A Social State in Russia

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Abstract

This article examined theoretical approaches to the study of the social state, as well as analyzes the legal framework of the social state and their practical implementation in the Russian Federation. The main problems of formation were investigated and the directions of the formation of a social state in the Russian Federation were identified.

In this work, the main problems of regulatory legal acts and ways to improve them were also identified. On the basis of the universal concept of "state as a social", which takes care of its citizens, eliminates social inequality, pursues an active social policy, tries to orient the economy socially, makes equal the starting conditions for the citizens of their country in their self-realization and of course not only guarantees, but also realizes social rights of citizens, was analyzed the social and legal policy of the Russian Federation . Based on the social experiment conducted by the scientist, the limit of state care (material, social and legal) to the citizens of the Russian Federation was established.

The existing problems between the current regulatory legal acts and the actual mechanisms for their implementation are disclosed.

Keywords Constitution, social rights, social state, social policy, social services, living standards, social services, social security, economic standards, qualities, economics, well-being, formation.

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Introduction

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Problems And Prospects For Formıng A Socıal State In Russia

Introduction.

Unlike the European countries that embarked on the path of building a social state at the end of the 19th century, modern Russia is just beginning its movement towards it.

One of the first legal acts of the new Russian state after the adoption of the Declaration of State Sovereignty of Russia on June 12, 1990, was the adoption by the Supreme Council of the RSFSR on November 22, 1991 of the Declaration of the Rights and Freedoms of Man and Citizen, which in its content was practically fully consistent with the Universal Declaration human rights and freedoms. In the Declaration of Human Rights and Freedoms, along with civil rights, social rights are enshrined: the right to work, its free choice and favorable conditions for exercise, fair remuneration and remuneration, reasonable restriction on the working day, the right to create trade unions and join them, the right to rest, to a decent standard of living, medical care, social services and education. Articles 27 and 28 enshrined the right to participate in the cultural life of society, the right to enjoy the benefits of scientific progress and the right to protect moral and material interests arising from scientific, literary or artistic works.

The proclamation of these rights in the Russian Declaration of the Rights and Freedoms of Man and Citizen served as a determining vector for the future construction of a social state. However, until December 1993, the 1977 USSR (*Union of Soviet Socialist Republics)* Constitution was in force in Russia, consolidating the position of an authoritarian state. On June 22, 1990, the Congress of People's Deputies formed the Constitutional Commission of 102 people, chaired by B.N. Yeltsin - Chairman of the Supreme Council of the

Russian Federation.[1] Work on the Constitution continued for more than three years in an atmosphere of fierce political struggle and sharp contradictions between the legislative and executive branches of government. The result of this work was the adoption of the text of the Constitution of the Russian Federation for an all-Russian referendum on December 12, 1993, at which it was adopted by the people.

The period of formation of the social state in Russia.

Since the late 90s. XX century in the Russian Federation some legal acts having a social orientation were put into effect, in particular, the Labor Code of the Russian Federation, the Housing Code of the Russian Federation, the Land Code of the Russian Federation, and the Family Code.

In December 2013, the Federal Law was adopted (as amended on July 21, 2014) "On the Basics of Social Services for the Population in the Russian Federation", which established unified standards for the provision of social services to the population in the state. The law spells out who has the right to social services, what a difficult life position is, what a person can count on when he is in a particular difficult situation. Regions are also responsible for the provision of social services to the population; they can establish social norms depending on their economic capabilities.

For the first decade of the XXI century, in Russia, the government of the country adopted documents of direct social significance, for example, "The concept of the federal target program" Social support of disabled people for 2006-2011 ", "The concept of the federal target program Children of Russia for 2007-2001", "Programs of state guarantees for providing Russian citizens with free medical care in 2006-2011", "the national program "Health", federal

[1] Social Rights in Russia: Eleanora Bindman //BASEES/Routledge Series on Russian and East European Studies; on Sept.15, 2017

target programs: “Housing”, “The Elder Generation”, “Culture of Russia”, "Social training for the disabled", " Rural social development", "Youth of Russia "," Socio-economic development of the Kuril Islands and Sakhalin region", "Environmental Doctrine of the Russian Federation" (2002).

The government of the Russian Federation had been established a working group to ratify the European Code of Social Security. This document contains a system of social norms, including the level of pension provision. In particular, when calculating a pension, it assumes a phased increase in the replacement rate for lost earnings from 40 to 60 percent. It also provides for the introduction of modern forms of insurance against all social risks. The issue of pensions is also contained in the 102nd Convention of the International Labor Organization (ILO), which Russia ratified, and on February 26, 2019 submitted documents on its ratification to the ILO. It sets the minimum social standards.

In fulfilling social obligations, the Russian state, as a constitutional one, is supposed to act realistically and thoughtfully. Considerable funds will be allocated for these purposes in the federal budgets for current years and decades.

But after the events of 2014 (the annexation of the Crimean peninsula and the war in eastern Ukraine), Russia felt a strong economic crisis in connection with the American, Western and their allies sanctions. Along with other branches of life, due to the unstable ruble exchange rate (the monetary unit of Russia), the social sphere has also suffered greatly. An example is the "pension reform", when on October 3, 2018, Vladimir Putin signed Law No. 350-FL[2] on raising the retirement age, which worsens the already difficult living conditions of citizens of retirement age in the Russian Federation.

[2] http://www.consultant.ru/document/cons_doc_LAW_308156/

According to a researched by the scientist department of History, Politics, Philosophy of the Manchester Metropolitan University Dr. Eleanora Bindman, the existence of social rights enshrined in the Constitution of the Russian Federation, in her opinion, does not coincide with the actual realization of these social rights in reality. Since the social experiment among focus group participants, demonstrated a deep understanding that the gap between the guarantees that exist on paper and reality are enormous[3].

Constitutional and legal status of social rights in the Russian Federation.

For the first time in the Constitution of the country, the principle of a social state was enshrined in article 7: “The Russian Federation is a social state whose policy is aimed at creating conditions ensuring a decent life and free development of man".

Human rights and freedoms were enshrined in chapter 2 of the Constitution of the Russian Federation. Recognition and protection of the rights, freedoms, honor and dignity of man and citizen have become the main duty of the state. The Basic Law of the Russian Federation encompassed all spheres of public life as system-forming institutions of society, guaranteeing a person and citizen his rights:

- economics
- ecology
- management
- pedagogy
- the science
- art

[3] Social Rights in Russia:Eleanora Bindman//BASEES/Routledge Series on Russian and East European Studies; on Sept.15, 2017

- the medicine
- Physical Culture
- defense
- public safety

The Constitution of the Russian Federation refers to the freedom of every person to make decisions regardless of the state.

As for social rights, they are not allocated to a separate section of the Constitution of the Russian Federation, but are included in the general chapter (second) together with other rights.

The fundamental rights and freedoms of man and citizen in the Constitution of the Russian Federation are divided into:[4]

- civil rights and freedoms - articles 20-31;
- political rights and freedoms - articles 32-33;
- economic rights and freedoms - articles 34-37;
- Social rights and freedoms - Articles 38-44.

In the scientific literature, the concept of " social rights" often includes some aspects of other aspects of public life - economic, civil, political. It is worth noting that the connection between these aspects of society's life is logical, while legal practice is quite conservative when approaching one or another side of public life. The everyday practice of human dormitory has developed its attitude towards the concept of "social", extending it to numerous processes of vital aspects: household, property, household, family, medical, pension, maternal, etc.

In the "Big Legal Dictionary" social rights are defined as "the totality of constitutional human rights (or citizens of a particular state), giving him the opportunity to claim material wealth from the state (under certain conditions).

[4] The Constitution of the Russian Federation (was Adopted at National Voting on December 12, 1993) (http://www.consultant.ru/document/cons_doc_LAW_28399/)

Typically, social human rights include the right to social security, the right to education, the right to health and medical care, the right to housing, special rights of children and the rights of persons with disabilities".

Social rights are granted by the Constitution of the country to every person, regardless of their social status and economic situation and should provide him, firstly, confidence in the implementation of a decent life; secondly, the possibility of comprehensive development; thirdly, the possibility of changing their social status in society.

With this in mind, social rights that have been enshrined in the Constitution of the Russian Federation [16, Art. 38-44] include '.

■ labor rights;

■ right to housing;

■ The right to education;

■ The right to maternity, childhood, and family protection;

■ the right to social security by age, illness, disability, loss of a breadwinner, pension;

■ The right to health and medical care;

■ The right to a favorable environment and reliable information on its condition;

■ The right to freedom of creativity and participation in cultural life using cultural institutions.

The listed rights directly reflect the purpose and tasks of the social state in relation to the person. In addition to them, the Constitution of the Russian Federation secured a number of rights that are not directly related to social, but guarantee their implementation. Such, in particular, are the right to liberty and security of person (Article 22); the right to privacy, personal and family secrets, the protection of one's honor and good name, the secrecy of correspondence, telephone conversations (Article 23), the right to inviolability of the home (Article 25), and the right to freedom of movement throughout

the Russian Federation and free place of residence (Article 27) and a number of others.

These rights are subject to general constitutional principles. ”

- inalienability of fundamental human rights and freedoms (Article 17, part 2);

-inadmissibility of the exercise of the rights and freedoms of human and citizen violating the rights and freedoms of other persons (Article 17, part 3);

- immediacy of the constitutional rights and freedoms of human and citizen (Article 18);

- equal rights and freedoms of human and citizen regardless of gender, race, nationality, language, origin, property and official position, place of residence, religion, beliefs, membership in public associations, or other obligations; the prohibition of any form of restricting the rights of citizens on the grounds of social, racial, national, linguistic, or religious affiliation (Article 19, Part 2);

- guaranteed state protection of human and civil rights and freedoms in the Russian Federation (Article 45, part 1);

- guaranteed to everyone judicial protection of his rights and freedoms (Article 46,

h. 1);

- the inadmissibility of the interpretation of the fundamental rights and freedoms listed in the Constitution of the Russian Federation as a denial or derogation of other generally recognized human and civil rights and freedoms (Article 55, part 1);

- the possibility of restricting the rights and freedoms of human and citizen by federal law only to the extent that it is necessary in order to protect the foundations of the constitutional order, morality, health, rights and legitimate interests of others, to ensure national defense and state security (art. . 55, part 3);

- the permissibility of certain restrictions on rights and freedoms with an indication of the limits and their duration in a state of emergency in order to

ensure the safety of citizens and protect the constitutional order in accordance with the federal constitutional law (Article 56, part 1).

Constitutionally, as a social state, the Russian Federation (in Part 2 of Article 7 of the Constitution of the Russian Federation) undertakes to protect labor and human health, establishes a guaranteed minimum wage, provides support to families, motherhood, fatherhood and childhood, disabled people and senior citizens , develops a system of social services, establishes state pensions, benefits and provides other guarantees of social protection.

The constitutional provisions that guarantee the possibility of restoring violated rights and freedoms by appealing decisions that violate them and actions (inaction) to a court (article 46, para. 2) are of particular importance in the system of social legal guarantees. This provision of the Constitution of the Russian Federation was developed in Federal Law No. 4866-1 of April 27, 1993, "On Appealing to a Court Actions and Decisions Violating the Rights and Freedoms of a Citizen". In cases of violation of the constitutional rights of citizens, they have the right to appeal to the Constitutional Court of the Russian Federation (Article 125, part 4), the activity of which is regulated by the Federal Constitutional Law No. 1-FCL of July 21, 1994 "On the Constitutional Court of the Russian Federation". [5]

However, such cases create inaccuracy and ambiguity in the unambiguous interpretation of the law, and therefore give rise to conflicting law enforcement practices, which weakens the social guarantees of judicial protection. Since the Constitutional Court of Russia decides issues exclusively of law, and in the course of legal proceedings it examines regulatory legal acts

[5] The Federal Constitutional Law No. 1-FCL "On the Constitutional Court of the Russian Federation", On July 21, 1994 (http://www.consultant.ru/document/cons_doc_LAW_4172/)

for compliance with the Constitution, and does not establish the actual circumstances of the case.

An example is the decision of the Constitutional Court of the Russian Federation of November 28, 2019 N 37-P "In the case of the verification of the constitutionality of parts five and six of Article 370 of the Labor Code of the Russian Federation in connection with the complaint of citizen AA Khmelevskikh ".[6]

In general, judicial methods of protection and restoration of social rights take place in courts of general jurisdiction. For example, according to Art. 352 of the "Labor Code of the Russian Federation" dated December 30, 2001 N 197-FL, everyone has the right to defend his labor rights and freedoms by statement of claim through civil proceedings.[7]

The system of social legal guarantees in accordance with the Constitution of the Russian Federation consists of the rights to work, housing, education, healthcare, protection of the family and childhood, pensions and assistance to people with disabilities.

In a welfare state, the implementation of these obligations should be supported by federal laws, including their financial support. In addition, the Russian government should develop and implement both strategic and tactical concepts and programs aimed at developing health care and education, helping young families, employing people with disabilities, etc.[8]

Thus, we can distinguish the main directions of the formation of a social state in the Russian Federation: social partnership, tripartism, social protection, social services, social entrepreneurship.

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[6] http://www.consultant.ru/document/cons_doc_LAW_338817/

[7] The "Labor Code of the Russian Federation", No. 197, On December 30, 2001 (http://www.consultant.ru/document/cons_doc_LAW_34683/)

[8] The Federal Law No. 442 “n the Basics of Social Services for the Population in the Russian Federation”, On December 28, 2013 (http://www.consultant.ru/document/cons_doc_LAW_156558/)

Problems of the formation of a social state in the Russian Federation.

However, it is necessary to pay attention to the fact that objective laws of social development, global and European trends of democratization and humanization require the strengthening and improvement of the constitutional foundations of social statehood in Russia. The real processes taking place in the Russian state, in many respects indicate the presence of signs of a serious crisis of the constitutional institution of the social state. The implementation of the concept of a social state requires a qualitatively different level of legal regulation in the social sphere.

The problems of the formation of the Russian Federation as a social state include the following:

- the problem of social inequality, the problem of inequality of regions in the Russian Federation;
- the problem of targeting social support, the problem of exercising rights;
- the adequacy of remuneration for labor, social security;
- unprotected layers of the population with pensions, benefits, the problem of protection;
- the problem of balancing the principles of the rule of law with a market economy and a social state, the social and personal rights of citizens with political, economic rights;
- the issue of systematization and codification of legislation that regulates relations in the social sphere, the problem of a balance between building a free market economy and the need to balance social inequality.

The ways to increase the efficiency of the formation of a social state in the Russian Federation.

To solve the existing problems in the process of forming Russia as a social state, first of all, it is necessary to coordinate the legislative process in the social sphere with the legislative process in other areas and the resource

support of the emerging institutions of the social state, which can be achieved by developing a unified concept of reforming the legislation in the social sphere.

The latter, in turn, should become an essential part of the national Social Doctrine of the Russian Federation. A higher level of systematization of legislative acts of the corresponding profile is seen in the formation of a comprehensive branch of social legislation, the active center of which should be either a codified federal law " On the basis of state social policy during the period of reform" , or the Basics of social security legislation, or the Social Code of the Russian Federation. Such an act could bring together social guarantees and benefits, which at present still constitute an incomplete set of norms scattered across numerous laws and by-laws.

Talking about the formation of a social state in the Russian Federation and the problems arising from this, it should be said that Russia is now far from a social state, since this requires "only five percent economic growth", which gives an increase in real incomes and resources every year, which can be spent on social support, which Russia is currently not able to achieve. There is a real need for raising the retirement age and resolving other issues of restructuring obligations. Realization of the goal of a worthy human existence by a social state is possible when creating mechanisms by which each person will be able to exercise their abilities, initiative to increase the level of dignity of their own existence.

The process of establishing a social state in the Russian Federation is slowed by the lack of a regional policy strategy both in aligning the socio-economic development of the constituent entities of the Russian Federation, providing assistance to depressed regions, and reducing imbalances in the real social situation of various population groups. As before, villages and small towns lag behind megacities in terms of quality of life. In a real social state, there is a need for targeted social support for people from low-income groups.

Another problem in the formation of the social state in Russia is the fact that interregional inequality is noted in Russia. This is considered a consequence of the continuing imbalances in the socio-economic development of individual territories. The problem of Russia as a state striving for a social one is a huge gap in the standard of living of the rich and poor. Long-lasting Poor Health and not high life expectancy in comparison with developed European countries is a direct result of the extremely low standard of living of people, poor living conditions, sanitation and hygiene, and poor organization of health care.

To implement the principle of the social state, it is necessary: to fix on the constitutional level norms on the social function of private property, [9] measures against the monopolization of the market; to revise the legislator's approach to determining the balance of interests in the interaction of society, the state and business representatives in the social sphere.

Conclusion.

Thus, having studied the problems and the main directions of the formation of the social state, we came to the following conclusions. A state that cares about its citizens, eliminates social inequality, pursues an active social policy, tries to socially orient the economy, makes the starting conditions for the citizens of their country equal in their self-realization, and of course not only guarantees, but also realizes the social rights of citizens, can be considered social. In fact, only a state that builds its policy taking into account the interests of all social layers and groups that make up modern society can be called social, able to balance, within the framework of its social policy, on the basis of a reasonable compromise, the balance of rights and obligations of

[9] The Housing Code of the Russian Federation, No. 188, On December 29, 2004 (http://www.consultant.ru/document/cons_doc_LAW_51057/)

various parts of society, if they inevitably exist dissimilar interests. In this case, the concern of the state - material, social, legal - should be felt by every citizen. The welfare state is focused not only on supporting disadvantaged groups, it is called upon to be not just an organ of charity and redistribution of public material goods. Providing basic social rights and providing assistance to those in need, it shifts emphasis to all kinds of assistance to active members of society, those who are able to contribute to building social wealth, while providing for themselves and their families. The task of the social state is to create the most favorable conditions for the development of the economy, business and labor force, to achieve a new quality of life, using the opportunities of social partnership and implementing the concept of social solidarity. At the same time, the state as one of the social partners, in some cases leading, acts as a conductor of the strategy of socio-economic development, monitoring the implementation of social legislation, paying particular attention to ensuring that each of the social partners - government, business, workers' organizations - clearly understands their share social responsibility. Despite the appearance of a number of publications on the topic of the social state, it has not yet been possible to develop a unified assessment of the state existing in Russia and its degree of compliance with the criteria of a modern social state. Given the specifics of Russia and the state of its economy, it is obvious that it will have to face many difficulties and go a long enough and difficult path before the Russian state gets the right to be called social.

Today, the main problems in the becoming and formation of the Russian Federation as a social state are the following: the problem of social inequality, the problem of inequality of regions in the Russian Federation, the problem of targeting social support, the problem of exercising the rights of sufficiency of remuneration for work, the provision of socially unprotected layers of the population with pensions, benefits, the problem of protecting social rights, the

problem of balancing the principles of the rule of law with a market economy and the welfare state, social and personal rights of citizens given with political and economic rights, the issue of systematization and codification of legislation that regulates relations in the social sphere, the problem of a balance between building a free market economy and the need to balance social inequality have not been resolved.

The state in the Russian Federation only seeks to create it as a social one, but much remains to be done so that it can really provide its citizens with a decent life.

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