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MUTUAL RESPONSIBILITY OF STATE AND CITIZENS IN CONDITIONS OF PUBLIC POWER IMPLEMENTATION

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Abstract

The main issue of a rule-of-law state is the problem of the relationship between the authority and individuals. The rule-of-law state emerges only if society has stable democratic, legal, political and cultural traditions, and it ensures the free and independent position of a person by its fact of existence. The main goal of the rule-of-law state formation within the Russian legal framework is a person-centered civil society whose highest value is a person. One of the signs of a rule-of-law state, aimed at ensuring the autonomy and independence of an individual, which will enable each person to feel a member of civil society, is the mutual responsibility of the state and the individual. Relations between a state as a political power and a citizen as a participant in its formation and implementation should be based on the principles of equality and justice. The state undertakes the insurance of justice in relations with every citizen. The paper analyzes the main approaches to determining the ratio of mutual responsibility of the state and citizens in the modern sense, forms and degree of its manifestation on the basis of the statutory regulations of the Russian Federation. Attempts have been made to investigate the category of responsibility. The concepts and types of legal responsibility of officials, tendencies in state responsibility for the activities of officials are considered. Suggestions are made to further improve the implementation of the mechanism of mutual legal responsibility of the state and citizens in the positive development of civil society.

Keywords: Legal, administrative responsibility, power, officials, citizens

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1. Introduction

The new legislation today contains certain guarantees both for the realization of the right to petition and for increasing the effectiveness of citizens' control over the activities of the government machinery. Their practical use primarily depends on the public, legal activity and desire of the citizens, as well as the level of their legal awareness. The Constitution of the Russian Federation not only recognizes the existence of civil rights and freedoms and proclaims their priority1 but also establishes the principle of the state restrictions with rights and freedoms: "Recognition, observance and protection of human and civil rights and freedoms is the duty of the state" (Article 2 of the Constitution of the Russian Federation) ... The responsibility of the individual to the state is built on the same legal basis. The use of state coercion should be legal in nature, not violate personal freedom, and correspond to the gravity of the offense. State and power duties and legal responsibility are the central links in the status of public authorities and officials. Specific and direct consolidation of responsibilities in regulatory legal acts contributes to the correct model of power entities behavior and to the effective fulfillment of their tasks and functions. In this case, the obligations must be provided with appropriate measures of responsibility to compel the obliged subject to fulfill them. The norms of law must contain a fixed liability mechanism, the absence of which allows public authorities to neglect the proper fulfillment of their duties. This is the close relationship of these two phenomena (Malko & Markunin, 2016).

2. Problem Statement

It is obvious that the rights and freedoms of the individual are the most important counterbalance to the allmightiness of state authority as they provide its limitation and self-restraint (Patyulin, 2010).

In this regard, let us turn to the essential content of the concept "theory of power" as interpreted by individual scientists studying this area. The theoretical understanding of the very phenomenon of power, its conceptualization, is faced with the problem of an irresistible "conceptual relativism" (Connolly, 1993). This leads to a methodological difficulty based on the fact that no rationally and logically built concept of power is able to become universal and gain general recognition, or, in other words, power becomes an "essentially contested" concept. Moreover, as Lyubashits (2014) noted, an attempt to build any universal, generally accepted theory of power is actually a big epistemological error, since researchers are interested in various aspects of this phenomenon, and the general concept of power just cannot be applied in all situations, in various spheres of society, and to different historical eras.

Thus, the architecture of power according to Lukes (2005) proclaims not just the levels of power but its capabilities and algorithms of manifestation. However, this view would be incomplete without considering some additional properties of power. To this end, Lukes offers a simple diagram shown in Figure 1.

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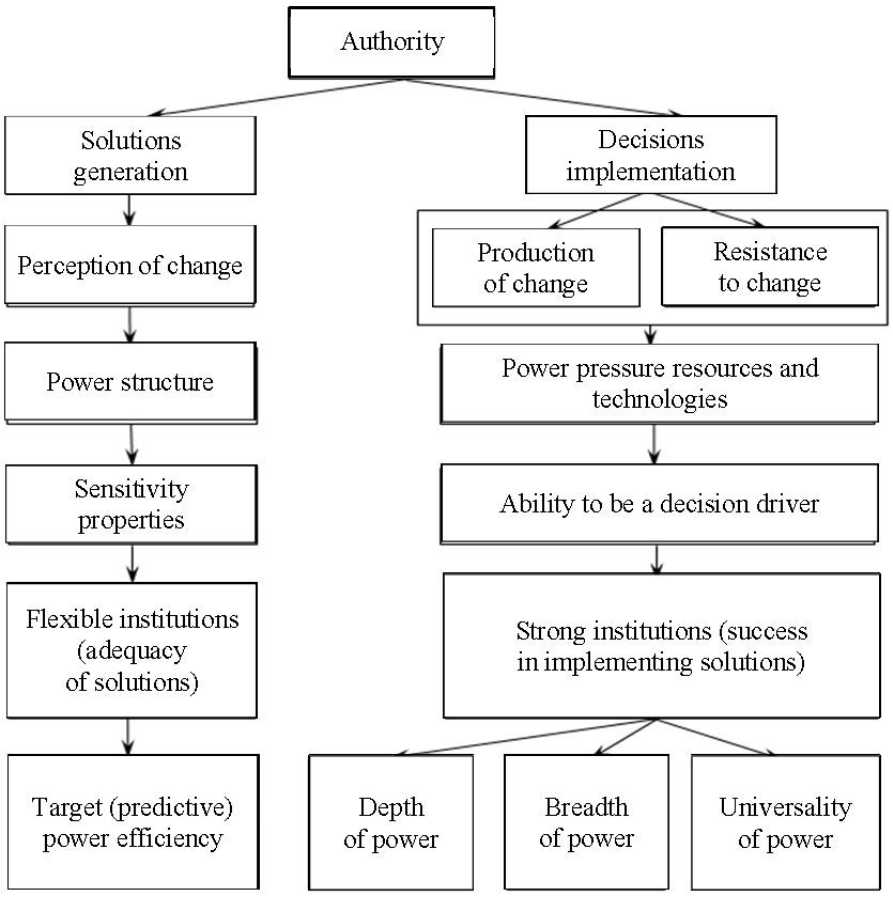

Figure 1. Power Architecture by S. Lukes

As can be seen from the above diagram, the authorities are responsible for both generating solutions and implementing them. Moreover, the first competence is responsible for the institutions flexibility and the decisions adequacy, while the second competence aims to maintain strong institutions. Moreover, strong institutions are a threefold ability, including the depth (power itself), breadth (the range of problems to be solved) and universality (independence from the context and circumstances) of power. Moreover, all these qualities are achieved by actions in the previously considered three dimensions of power. However, as it turns out, this is not enough to understand the essence of power (Lukes, 2005).

Strengthening state institutions, including the system of executive power, means the transformation of state power. One of the main tasks of the systemic-structural approach is to analyze the contradiction between centralization and decentralization in public administration. The formation of a vertical of power in Russia will have certain consequences for the further development of federalism as well as for municipal authorities. Specifically, the reform of public administration in Western countries and in Russia has opposite directions. The tendencies observed in developed countries in the field of public administration indicate that the potential for efficiency aims not to increase the role and importance of state power in the life of society (centralization) but to decrease it and reduce its former functions. The state and state power as systemic objects exist both in the internal and external international environment. In this regard, it becomes necessary to analyze the changes in the state and state power worldwide in the era of globalization. If for a long period of time the states kept mainly on territorial conquests, today they

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are reorienting to control the distribution of world resources as the main means of ensuring their well-being. Goods gradually acquired greater mobility than capital and labor, which led to the emergence of a trading state (Rosecrance, 2000).

A state being a member of the international community subordinates its autonomous interests to international norms and rules, trying to harmonize domestic and international legislation. The need for harmonization may result in international laws being internationalized as their own ones. Supranational governments help member states to address emerging domestic issues such as immigration and social policy ones, bringing them internationally and establishing accepted behaviors and standards for dealing with issues. However, all this requires reconsideration of the traditional role of the state and state power (Lyubashits, 2014).

3. Research Questions

In the modern international community, tendencies to recognize the institution of responsibility as a universal value, rethink the system of human rights through their relationship with responsibility, legalize general requirements for the responsibility of the individual, society and the state, and form a responsible person are also actively developing along with studying the significance of changes in the role of the state and state power. In a number of draft international legal acts, responsibility is presented as a feeling, concern for the proper implementation of rights and obligations, the quality of a person, a qualitative characteristic of the state's activities. This indicates that the international community is looking for conceptual ideas about the essence of responsibility (Radachinsky, 2014).

Legal responsibility is the personal ability to be aware of a person's unlawful act and to undergo measures of state-coercive influence in the form of deprivation of benefits directly belonging to him/her. This ability is recognized by the state. Therefore, legal responsibility is associated with law, the state and, of course, the legislation (Ocheretny, 2016).

As Lyubchikov (2009) notes, legal science pays great attention to studying the problems of legal responsibility, administrative responsibility, the concept of an official. However, the definitions of these concepts still contain numerous contradictions. If we do not touch any of the most important concepts of official law, then not only agreement on the content of this concept but also the very unity of approaches to its search, which is still missing, will be revealed. Strengthening the same responsibility (to a greater extent in administrative law) is manifested in detailing the existence and introduction of new structures of administrative offenses (Kushnir, 2017).

A new regulatory framework has been created to increase the efficiency of citizens' participation in managing state affairs and control over the activities of the state apparatus (Zubarev, 2007).

4. Purpose of the Study

In order to implement the mechanism of mutual responsibility of the state and citizens effectively, it is necessary to study the main features of exercising state power by officials, the degree of legal activity of citizens in the current scenario, based on the analysis of the legal regulation of these institutions,

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propose measures to further improve these relations in modern conditions of society and state development.

5. Research Methods

Description of the methods used in the study.

6. Findings

State and authority duties and legal responsibility are the central links in the status of public authorities and officials. Specific and direct consolidation of responsibilities in regulatory legal acts ensures the correct model of power subjects' behavior and contributes to the effective implementation of their tasks and functions. In this case, the obligations must be provided with appropriate measures of responsibility to compel the obliged subject to fulfill them. The norms of law must contain a fixed liability mechanism, whose absence allows public authorities to neglect the proper fulfillment of their duties. This is the close relationship of these two phenomena. The responsibility of public authorities to citizens follows from Article 53 of the Constitution of the Russian Federation, which guarantees the possibility of compensation for harm caused to a citizen by illegal actions (nonfeasance) of state and local authorities and their officials. However, the current legislation establishes an extremely large set of immunities, rights and freedoms simultaneously with a much smaller, unsystematic list of duties and responsibilities in the legislation. The Russian systems of immunities and guarantees, which ensure the independence of officials of public authorities, in practice create the danger of permissiveness, since they can complicate and sometimes even completely exclude the possibility of implementing the procedure for bringing officials to legal responsibility. The existing regulatory and legal framework practically does not provide any responsibility of subjects of public authority for the results of their activities, that is, for non-performance or improper performance of their duties. Most of the norms in our country related to the responsibility of the state and state bodies are more of a declarative nature. The Constitution of the Russian Federation also requires substantial revision with regards to this aspect. Changing the Basic Law of the country is a necessary process of power in the system of checks and balances and will help in building a new system of responsibility. At the moment, the emerging general social and political situation around the activities of public authorities is associated with the opinion that the authorities are irresponsible for the results of their activities and that their status is used by them to express only corporate or personal interests. Such a situation can lead to a decrease in the legitimacy of power, trust in it and denial of its value. The public authorities should also bear positive responsibility, since the authorities, even in the absence of any illegal actions on their part, bear the overall responsibility for the citizens safety, creating necessary conditions for their normal life, exercising their rights and freedoms ... To successfully cope with this function, the government must be strong, effective and capable (Malko & Markunin, 2016). In our opinion, today it seems more relevant than ever to consider the introduction of the institution of responsibility of senior officials of the subjects of the Russian Federation to the state into the Russian legal system in addition to the already existing types of legal responsibility. In this case, it is assumed that responsibility occurs both for breaking a regulation and violating a law. In case of

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liability for violating a law, we are talking about negative liability, and in case of liability for breaking a regulation it goes about positive liability, which can be defined as the obligation of subjects of an absolute legal relationship to observe the rights of other participants in this legal relationship, not to cause harm by their actions (nonfeasance) and the obligation to comply with the laws ... Together, these two types of responsibility (positive and negative), having common goals (protection of the rights and legitimate interests of the subjects of legal life, legality and law and order, prevention of offenses, etc.) and common functions (for example, protective), form a single institution of legal responsibility (Patyulin, 2010).

As for the question concerning the types of legal responsibility, it is key both for determining certain types of legal responsibility in the entire system of the latter, and, in particular, for determining administrative responsibility. As a rule, in legal science there are 6 types of legal liability: constitutional, criminal, administrative, civil, disciplinary, material. Recently, however, both scientists and legislators have expanded this well-established list of types of legal liability (with environmental, tax, budgetary and other types of liability). Of course, for a relatively young Russian legal system, such a phenomenon is predictable, and the allocation of different types of responsibility has some benefit. At the same time, we can state the dilution of legal responsibility and the loss of clarity in the criteria for distinguishing one type of responsibility from another. Administrative responsibility and decodification of the compositions raised by leading legal scholars suffers most from this (D.N. Bakhrakh, V.D. Sorokin, Yu.N. Starilov). The situation is complicated by the legislator's uncertainty and the variety of positions on this problem in science.

7. Conclusion

Responsibility is a negative assessment of an action and appropriate penalties provided by law. Currently, the problem of legal liability is still relevant (Lyubchikov, 2009). If in the past its solution in jurisprudence had an applied nature, at the present stage of society development it has acquired methodological significance. Moreover, in the theory of law it has become an ideological one, which, in turn, predetermines new trends in the development of the institution of legal responsibility. The dual nature of responsibility is manifested in responsibility strengthening or tightening as well as liberalization. Considering in detail the administrative and legal norms in all their totality and diversity, it is possible to conclude that there is a need for a systematic approach to the problem of officials' responsibility, since the currently contained norms on the responsibility of executive bodies (the responsibility of officials, since they collectively or individually form these organs) are very fragmented. In the Code of Administrative Offenses of the Russian Federation officials are indicated as subjects of administrative responsibility in more than 430 cases (Kudashev, 2010). Therefore, we agree with the opinion of Fedoseeva and Sheremet (2008), who in their research note that it becomes necessary to adopt a law that separately regulates the issues of the responsibility of officials being the representatives of the executive branch of the Russian Federation and covers the procedural moments in detail.

Legal responsibility must be seen from the highest government official to the lowest level civil servant. This requires the introduction of an open and transparent mode of power, which should be the most important condition for control and other means of direct and indirect influence on the activities of its representatives. The legal nature of the mutual responsibility of the state and the individual is an

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important component of the legal regulation emerging in society. However, a separate place among the rights and freedoms listed in the Constitution of the Russian Federation is occupied by civil rights and freedoms, by which it is customary to understand the freedom of every person to make decisions independently of the state. The necessity is not only the proclamation of these rights and freedoms but also their implementation in public relations.

In the process of building the rule of law and civil society, positive responsibility acquires a significant role since it is closely intertwined with social and legal activity and initiative in the implementation of state-power activities. Society should accustom the public authorities to feel the need to act responsibly and do it through the values and ideals of behavior adopted in it. Promoting ideas of mutual responsibility and respect towards all members of society is a key factor in building positive legal responsibility. The perception of the latter as a duty is the most important guarantee that officials who are able to bear this kind of responsibility will participate in the work of public authorities.

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