HUMAN RIGHTS: THEORY AND PRACTICE

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цих місцях, не відповідає ст. 70 Конституції України. Положення Закону України «Про вибори народних депутатів України» яким зумовляється вибірні права засуджених, Конституційний Суд України визнав неконституційними [7]. Європейський Суд з прав людини у справі Герст проти Сполученого Королівства 2004 р. розглянув проблему обмеження виборчих прав ув'язнених. У постанові вказано, що наявність обмежень виборчих прав ув’язнених та здача Іх застосування повинна бути прямо передбачена вищою судом по конкретній справі. На думку Ю.Б. Ключковського актуальне має стати закріплення в законодавстві можливості встановлення такого кримінального покарання як тимчасове позбавлення виборчого права [8]. Однак погляди науковців з цього приводу розходяться, тому що таке обмеження є неприпустимим, оскільки не передбачено Конституцією України. Конституція України у ст.38 таких обмежень виборчих прав громадян на участі у управлінні державними справами не передбачає. Тому, Кримінальний кодекс України встановлює санкцію у вигляді заборони обмежити виборчі права.

Таким чином, можна стверджувати, що на жаль, за наявністю співвідношення нормативно-правової доктрини, у державі, яка не має достатньо арсенал для врегулювання основних процедур виборчого процесу, Наведені міркування дозволяють зробити висновок про сформованість основних положень щодо визначення об'єкту та характеру правовибачень засуджених, які стосуються виборчих прав. Законодавство, що передбачає такого обмеження виборчих прав, встановлює судову рішення, яке їх трактує як узагальнене обмеження, з виключенням участь у виборчі правах людини та громадян. Законодавчим актом визначається, що обмеження виборчих прав у відповідності з наявними обставинами, які стосуються конкретної особи та її поведінки. Надалі вважається як необхідним привести у відповідність норми діючого законодавства аби забезпечити відповідь на інформацію національного! правової системи положенням Конвенції про захист прав людини та основоположних свобод та запровадити неухильну дотримання прав і свобод людини, незважаючи на її перебування в міжнародних позбавленнях волі.

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REAL ISSUES OF STATE DEVELOPMENT IN UKRAINE. CURRENT SITUATION

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Conference participate

This article is dedicated to the issues of current state and some problems in Ukraine in the direction of development and reinforcement of the system of self-government as a display and the most important element of local democracy. In the context of reformations which now takes place in Ukraine this topic and relevant problems are very topical as an example of formation of local democracy on post-soviet space. A lot of these countries have the same problems as Ukraine. In this article are not only defined the main problems on the way of effective system of local self-government, but also the main possible ways of their solutions.

Keywords: development, modernization of Ukraine, the ideology of the members of society, globalization, rationalization of human relations.

The development of the modernization of Ukraine requires further establishment of statehood, democratic principles of social governing, formation and modernization social and political and economic institutes, modern organization of public power and administration.

The society is responsible for the future, which developed naturally as a result of the free self-realization of four main pillars of society - individuals, families, ethnic and labor communities, are operating in the mode of peaceful coexistence and harmony of all social groups.

The essence of the question what society and what state we are building lies in the state development namely in defining the objective factors of the determining the sustainability of society and the adaptation of public organizations and state institutions for their actions.

The ideology of the state development should provide ideological and political orientations for the development of social relations economic, political, social and cultural spheres of society, creating a strong and competitive society, economically powerful, the secure state based on the consolidation of society.

It is important to improve the basic principles of the ideology of nation-building that must have general civilized nature and not limited to a narrow understanding of ideology as an expression, study and protection of the interests of individual classes or social groups. It covers the following key components as ideology of the: formation of members of society and the state; civilized state; development of economic, political, social and cultural spheres; the introduction of a modern model of governance - public administration.
The ideology of the members of society and the state should provide formation and to ensure the harmonious development of intellectual, emotional, volitional and physical scope of the person, responsible for the development of the human community, society and capable for the self-actualization. Such a person should have the following characteristics: the cult of work and professionalism; patriotism; legal culture and legal awareness; responsible attitude to human dignity, freedoms, rights and duties; the cult of the mother and the family; psychology activities and social harmony; culture of interpersonal relations. The prominent place is purposeful formation of intellectual elite of society, nation and state as the leading force of social progress.

The ideology of the civilized state means a common benchmark for the world civilization development, the life and development strategies, aimed at the good public.

The only effective "response" to the globalization "challenge" of the modern world means a purposeful formation of economic ideology and legal economic culture of society.

The economic ideology as a system of economic values and purposes acts as a forming ideas system in society and in the form of social self-identity, because even the ideology, including economic, gives to the person and to the society the "image of the content of their work." Therefore, in determining the economic ideology is extremely important to consider its constructive role and social efficiency in the process of social ideals, as "the guidelines and values supported by economic incentives and rely on them".

Accordingly, the legitimation of the economic ideology and its adequate strategy of social and economic progress of the nation plays a major role in the process of modernization of the social systems [1, p. 73].

The necessary condition for the effective social and economic development of society seems the modernization of the economic ideology, as it is generally accepted, that society can not exist if it does not assert the values that provides common interests, cooperation and mutual assistance between people.

The globalizational trends of the modern world require the formation of such legal social and economic system, "which would contribute to the formation of active economic outlook. Therefore, the economic ideology as a creative knowledge economy is a mean of reconstruction of social and economic structure towards increasing domestic social and economic potential and economic development ahead." [2]

The ideology of building cultural sphere lies in promoting the maximum development of the individual, of all nationalities and ethnic groups, living in Ukraine; ensuring the secular character of the society, government and education; assertion of civic equality of believers of all religions, non-believers, atheists, freedom of conscience, religion and outlook.

The issue of further development of the state-building ideology is connected with politics. It integrates a system of views and beliefs, which are used to explain the world so, as to form, establish, direct and justify the certain forms and methods of political activity; this is also the system of beliefs, which is reflected in the political doctrines and impact on society as it follows into all spheres of human life and has tremendous unifying and whole guiding force.

The content of the political sphere is, primarily, political and power relations of the peoples, nations, social groups and individual to conquer, maintain, use of power and influence over the government. It can be also presented as the activities related to the organization of the state, political power, the definition of its goals, objectives and means of ensuring their functioning political and legal norms.

The politics is aimed to provide the conditions under which the creation and appropriation of social values produced in the material and spiritual spheres, responds to the interests of various social groups; this feature of the policy is reflected in the widely expressed definitions of power as a tool for distinguishing of the values in society.

The rationalization of human relations in these areas, as well, as more efficient use of social values, is directed to the following types of public policy: the economic, military, scientific, technical, social, cultural, environmental, etc.

The ideology of social development. It manifests itself the socialization of public administration and state, it is also focused on the establishment of such traits of the relations between social groups, sectors, classes, urban and rural areas, regions as partnership, harmony, peaceful cooperation, mutual, non-forcible prevention and resolution of conflicts. The essence of the ideology of social relations is providing both dynamism and stability and growing vitality of society and the state.

Having considered the ideological - teleological (purpose) - filling components of the state building, it should be also determined - the direction and the governing of a modern state and the management components of the nation-building.

Retaining the best features of law, respect for human thought, inviolability of the human person, the state of the last quarter of the XIX century takes on the tasks of the prosperity, which are excessive for the individual citizen or civil unions of people. The law state is transformed into a cultural state - the human-oriented state of welfare.

The objective process of the natural and historical development of society and the state, guarantees of the state sovereignty, dignity, economic prosperity, social security, order, peace and harmony makes the implementation adapted to the modern conditions recognized and implemented in economically developed countries with the current models of public administration.

Modern and perspective state has its main focus on cultural and educational activities, stimulation of positive and reduction of negative features in the state on the basis of scientific forecast.

Development of the democratic public foundations of public administration are conditioned by our national traditions, mentality and needs as democratic beginnings were always present in Ukrainian consciousness.

During the complicated transitional stages of public development arises a strong need in the efficient system of public administration, adequate growth and consolidation of the society.

Ideology of public administration - administration, based on the expression of will of communities, realized by individuals appointed by the same community for the sake of achieving its aims and goals - was developed and actualized by international practice. Thus, public administration is a type of activity related to policy, laws and civil society.

Modern conditions demand application of new approaches and methods of public administration:
- replacement of common methods of administration which based on application of powers with more flexible ones;
- transition from strictly bureaucratic procedures to those aimed at providing with qualitative public services.

Nevertheless, the main clue aspect of state administration - the state - and public administration - community - remains constant. The subject and the object of administration is a group of people - community: community of village, township, region, city, state.

and international community with subjects of civil society including non-state organizations, professional, confessional, corporate and other associations.

Public administration is directly connected with public sphere which is a public process of finding mutual aims and interests means of its achieving by individuals, their groups and communities and also areas of its practical realization within the system civil relationships and institutes.

Public sphere is designed to fulfill vital functions¹ that provide with interconnections of authority, society and economy, namely:
- definition of public interests and goals;
- legitimation of public policy and its transformation into state² policy (which is the main function of legislature and local self-government exercised through adoption of legislative and normative-legal acts);
- provides with achieving of public aims and goals³ (which is the main function of central and local executive bodies and executive apparatus of local self-government);
- supervision⁴, including public supervision, over general state of society, economy, social sphere; (this is the judicial branch of power and the "fourth" branch of power - the media);
- education of citizens in public sphere which is the purpose and should be and an obligation of public groups and subjects of civil society.

These functions are designed to provide with support and expand the role of society and its subjects in the process of public governance, stimulate for seeking decisions which will give an optimal choices of combination of private and public interests.

Concerning combined public system public sphere covers the following systems: political, economic, social, legal, mental etc Geopolitical environment and foreign factors also effect civil system.

Thus, it creates a certain diverse infrastructure within public sphere. It has at least 4 main elements:
- firstly, economic: public sector of economy, production of public goods, redistribution of revenues, fulfilling of public needs etc;
- secondly, social: health protection, education, system of social welfare (pension welfare, employment, social support of youth) public transport and means of communication, protection from criminality and corruption, communal service, support of social stability;
- thirdly, political: system of public government of social affairs and non-state organizations and associations of citizens, social network of formation of public opinion;
- fourthly, sociocultural: institutions and institutes of saving and reproducing of mental values of society.

In this context public sphere in Ukraine is still in the process of formation so it cannot perform its functions fully yet.

Establishment of systematic sequences and laws of public administration are aimed at:
- provides public welfare, social values, aims, interests and needs;
- consolidation of citizens and community around vision of future community and society, national ideas etc.
- integrity of the process of administration: from identification of interests and/or needs of certain individuals to evaluation of results and its solutions⁶;

Nowadays, in, the countries with the highest level of the development are facing the transformation of the state government and public administration there is the tendency of transformation to the more developed model of public administration which the World Bank defines as the new Public Management⁷.

This model is based on the methods of corporate management which is used in business and non-profit organizations. This model is aimed on the increasing of the flexibility of the decision-making within the mechanism of public administration, reduction of hierarchy, delegation of powers to the lower level of decision-making and intensification of reverse contact between the government and its citizens⁸. The process of modernization of the traditional model of the public administration into the model of the New Public Management is still in progress. In today's world, the concept of "New Public Management" is close in meaning to the concept of "Good Governance". The term "Good Governance" has appeared within the framework of the UN Program of the development in the year of 1997⁹.

The sources of appearance of that very concept were the concepts of the New Public Management and the Networked Government ¹⁰. To deeply understand the meaning of this concept we should outline that the term "governance" is quite a broad category. According to the scholars' definitions the term "governance" means:
- the activity of the state bodies which perform their functions to regulate the social processes, to implement the public policy and to part the state resources;
- social or systematic governance which means the management activity as a public coordination that allows and facilitates collective actions through the collective decisions not in vertical, but in horizontal measurement.

In deed, the term "governance" has three main the mode of utterance:
- "political governance" (governance as administration; execution of power);
- "systematic(social) governance" (as different ways of the public streamlining that consists of three main categories: market, hierarchy, delegation of powers to the lower level of decision-making and intensification of reverse contact between the government and its citizens)⁹;
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⁵ Sj - “systematic(social) governance” (as different ways of the public streamlining that consists of three main categories: market, hierarchy, delegation of powers to the lower level of decision-making and intensification of reverse contact between the government and its citizens).
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⁸ To deeply understand the meaning of this concept we should outline that the term "governance" is quite a broad category. According to the scholars' definitions the term "governance" means:
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"new(public) governance" (as a modern type of horizontal, networked organization of administration).

In the model of "Governance", the contract type of relationships have a prevailing status as the increasing of the social welfare is the main goal among all of the participants that willingly desire to reach the consensus.

The model of "Governance" actively tries to involve different commissions, forums, powerful democratic and organized groups (including the representatives of the civil society) in the process of the public management.

The Model combines competition with cooperation that are based on organizational networks where the level of trust among "actors" is much higher than in the administrational model. That guarantees substantial reduction of the transaction costs, overhead rationalism in the usage of the resources, increasing of the innovations (and also the lifting of the effectiveness of the public governance). The advanced incentives of the consensus between the "actors" of the public administration creates the Internet and on the informational technologies.

The model of "Governance" foresees that administration always deals with such problems as: the find of the consensuses and compromises, resolving the controversies according to the standards of the business structures, non-governmental organizations and other representatives of the civil society; to find the balance in the system of decision-making; to legitimize the process of decision-making in the sphere of public management organizationally and technically and control of that kind of the decision-making.

The model of "Governance" has negative features such as corporatism which appears with the interests and actions of different business groups (or other groups) that traditionally try to reach the monopoly, they desire to represent their interests in the exclusive (with the permission of the state). The corporate groups always try to support the state and its decisions to receive the rights to take part in the state governance. As the example of a such "tricky question": the labor legislation, relations between business and labor groups, the foundation of the different projects in the places off the beaten track the country. As the example of corporatism there is a model "tripartism" that includes the interests of the tree main "players" of the public management: state - business - professional unions. Each player pursues its own corporate interests.

The "mart Governance" is a modern tool of the "Good Governance", which combines five goals of governance:
- Specific goal - exact goal (this goal must be clear and accessible to the parties for 100%);
- Measurable - you should be to measure whether you can reach the goal);
- Achievable - the goal must be realistic and the parties must possess all the necessary resources;
- Relevant - can you realistically achieve the goal with the resources and are these goals relevant;
- Time-bounded - the timeline you need to achieve the goal;

Each social reformer, who tries to build the modern and legal state must pay attention to such special problem of the appropriate reorganization of educational, selective and social institutes of elites. If they are defective then non of the social, economic or political improvement won't provide the state with continues changes, thus the only who can create the history are people.

With the existence of the conceptual ideas, sequences, laws, principles, development of the society and its governance give us an imporuntly not only to evaluate economic, political, social, cultural, governmental phenomenon and processes but also to predict the direction of the state foundation.

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