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PROPORTIONATE REPRESENTATION OF PEOPLES***V.I. Zorkal'tsev. Ethnic & Confessional Situation in Russia Today***

There is a difference between concepts of "religious extremism " and "terrorism". The first one is a deformed type of religious organizations; the second one is a real threat with which no state can deal alone. What is necessary in the fight against terrorism? Development of legal acts regulating questions of the fight against crimes; development of legal measures of liquidation of financial sources of terrorism; destruction of ideological and propagandist foundations of terrorism.

Affinity of dogmas, doctrines and traditional character of the parties of the dialogue play a big role in the development of interconfessional relations. In many respects interethnic and interconfessional consent is the common ground of peoples. It's the authority's goal not to interfere into initial disagreements of churches and religions and thus to promote harmonization of interconfessional relations. In the fight against terrorism the initiative of religious organizations is necessary, instead of creation of formal structures incapable to decide anything.

Spiritual-ethnic relations are the basis for formation of interethnic communities. Spirituality of peoples begins with the religiousness. It helps them to preserve their self-identity. National policy in Russia has always been different from the Western canons of the decision of interethnic problems. In our country we tried to keep a traditional tenor of life of various peoples. However nowadays less attention is paid to small ethnic groups.

There should be a special state agency engaged in realization of national policy. It's necessary to create a Chamber of Nationalities under the President of the Russian Federation. Each ethnic group should be represented in the Chamber. There is a need for formation of a deputy group in the State Duma which would unite those deputies who are interested in solution of interethnic problems.

It's a major task of the state and a civil society to revive spirit in the multinational people of Russia.

PARLIAMENTARY LAW***N.V. Onishko. Procedural Limitations of Powers of a Body of People's Representation in History of Russian Constitutionalism (XIX- early XX centuries)***

Free activity of the parliament is one of essential characteristics of democracy.

Since the reign of Alexander I, political leaders of the country have experienced the problem of a necessity of creation of the constitution, and introduction of an institution of national representation. However, there was no place for a real division of powers and creation of a sovereign parliament under absolute monarchy.

Under the Speransky's project, laws were to be introduced by the government, adopted in the State Duma

and sign into effect by the Emperor. In other words, Speransky left the Emperor as a key figure in state apparatus. That would be rather difficult to call such State Duma an independent agency in the legislative process. It was typical for several other projects of XIX century.

“The State Authorized Treaty of the Russian Empire”, prepared by N.N. Novosiltsev in 1820, provided for establishment of a bicameral State Sejm, but the right of the legislative initiative was granted only to the Sovereign .

Minister of Internal Affairs P.A. Valuev suggested to reform the State

Council in the following way: to create elected grades from provinces in it, but to leave the vowels appointed by tsar. Konstantin Nikolaevich Romanov proposed to create Consultative Assembly of vowels in the State Council. In 1881 Minister of Internal Affairs M.T. Loris-Melik presented his report to Alexander II with a key idea to introduce foundations of a representative system (the General Commission) and simultaneous amplification of collective nature and professionalism in legislative activity.

Despite of the wide competence of prospective agencies national, in these projects it had only auxiliary value for work of the State council.

Democratic orientation distinguished principles of work of a legislature in projects of the Decembrists (P.I. Pestel, N.M. Murav'ev). They proposed to create an independent national representation that could not be limited by anybody.

Liberal projects provided for granting the right of the legislative initiative not only to the Sovereign but to deputies too; adoption of laws by unicameral or bicameral representative agency (in the second case both chambers were to be elected), promulgation of laws by the Emperor (or the last remains of the Senate).

Up to October 1905, the national parliament was seen as a consultative agency completely dependent in its activities on the monarch. But in the autumn of 1905 a revolutionary situation compelled the tsar to make a concession. On October 17, 1905 the Manifesto on Improvement of the State Order was signed. However, provisions of the Manifesto

allowed ambiguous interpretations, and didn't clearly define either legislative or control powers of the State Duma.

The tsar took advantage of that ambiguity: transformed the State Duma (together with the State Council), into a chamber of the parliament, and cut down its legislative, control and fiscal powers. The State Council started to play an equal role with the Duma in the legislative process. Refusal of the State Duma to adopt budget of a certain governmental department could not stop its execution. The State Duma could not consider large war time credits or any questions that concerned military and naval departments. The State Duma possessed the right of inquiry into the activities of ministers and heads of departments, but a mechanism of their responsibility was missing.

Overall, experience of law-making and other activities of the State Duma of all four convocations shows that the government did not give serious value to the Duma's legislative and control powers.

The problem of restriction of independence of the parliament is not so essential now comparing to the beginning of the XX century. Nevertheless historical examples are instructive for modern constitutional law. Some modern problems of realization of the competence of various state agencies, human rights, federalism, local self-government can be considered with use of this methodological tool kit: from the point of view of possible restrictions of substantive laws by procedures of their realization.

O.N. Bulakov. Representative Powers of the Soviets in the Period of Soviet State-Building

The article is dedicated to the status and representative powers of the Soviets during the period of 1918-1989. The author emphasises distinctions between statuses of the Soviet legislature de jure and de facto.

In 1918-1936, the All-Russian Congress of the Soviets was elected by all population of the country, and the All-Russia Central Executive Committee of the Soviets (VTsIK) formed by the All-Russian Congress of the Soviets.

According to the author, the All-Russian Congress of the Soviets (upper tier of the legislature), carried out its functions nominally. In reality all legislative power and a significant part of executive power belonged to VTsIK. There was no separation of powers, publicity and or democratic order of formation of VTsIK in the country.

In 1936-1989, the USSR Supreme Soviet was by all population of the country, the Presidium of the Supreme Soviet was formed by the Supreme Soviet.

The author comes to a conclusion that the USSR possessed a unique form of government between October 1917 and October 1989.

Yu.G.Zvygin. What is Parliamentary Law?

Definition of parliamentary law was discussed at a special round-table "On the normative basis of parliamentary law of the Russian Federation". The participants came to a general conclusion that high quality of adopted legislation is predetermined by high quality of legislative procedure in both chambers of parliament; close coordination of legislative work with the

Government and President of the Russian Federation. Adoption of two special pieces of legislation would be very helpful: on normative legal acts and on the order of adoption of federal laws (including federal constitutional laws). It's also necessary to adopt a law on the Federal Assembly to sort out and clarify all problems of interaction between two chambers of the federal legislature.

A.B. Ryzhov. Effectiveness of Activities of the Legislative Body of State Power of a Subject of the Russian Federation

The legislative body of state power of a subject of the Russian Federation is a permanent supreme and unique regulatory authority of a subject of the Russian Federation where the right of the legislative initiative belongs to deputies, head of administration and and representative bodies of local self-government. Effectiveness of the legislature's activities is defined by such factors, as revelation of public needs for

legislative regulation by all persons participating in the legislative process; quality of adopted laws; interaction of all concerned persons in discussion and consideration of problems, developing drafts into laws, search for conciliatory proposals. One of the most significant steps to increase effectiveness of the legislature is probably to increase responsibility of a head of the legislature.

CULTURE AND TERRORISM

I.D.Kobzon. Culture against Terrorism (Part 2)

One of the main problems of high culture is the adjustment of harmonious relations between nature and society. Nature warns mankind that it is not possible to communicate with her in a present way. It is high time to realise it by heads of the states.

Education of a citizen is the keystone of success of transformations that are dictated by life. A person as a spiritual being possesses huge opportunities and abilities. Rights and

freedom are given to a person to exercise them within the framework of the state.

What is the role of the state? The state is one of the main values of the human civilization.

In relations with the state a person acts as a citizen for whom protection of the state, maintenance of its unity and integrity, normal, effective functioning is a civic duty, his own business. The author of the article

drafted federal law “On maintenance of the right of a citizen of the Russian

Federation on honour and advantage”.

CITIZENS' APPEALS

A.V. Belyaev. The Citizen of the State: Topical Questions of Legal and Organizational and Methodological Maintenance of Work with Appeals of Citizens to State Bodies (Part 1)

The right of citizens on appeals to bodies of the government and local self-government, stipulated by Article 33 of the Constitution of the Russian Federation, has not been reflected in any federal legislation so far. Decree of Presidium of the USSR Supreme Soviet of April 12, 1968 12534-VII “On the order of consideration of suggestions, applications and complaints of citizens” is still applied now even though it was adopted in a different historical period.

There is no definition of the most significant concept of “appeal” in the Decree. Legal uncertainty, lacunas in regulation of some remedial actions, etc. are characteristic for the document. There can not be a practical realization

of norms about responsibility of senior governmental officials.

In some regions legislators have already taken advantage of this opportunity.

It is high time to adopt a federal law regulating the major norm about the right of citizens on the appeals to state bodies and institutions of local self-government. However, in December of 1999 the last version of such act (of December 3, 1999) was rejected by President of the Russian Federation because it allegedly violated certain norms of the Constitution of the Russian Federation, federal laws and had some internal contradictions in the act too.

HUMAN RIGHTS.INFORMATION FOR ALL

A.P.Lyubimov. Use of New Information Technologies in Legislative Procedure

In September of 2003 an international seminar on "Application of new information technologies in legislative procedure" was held in Novgorod. It was organized by the Council of Europe, Law Department of the State Duma Apparatus, Administration of Novgorod Oblast, Novgorod Oblast Duma and "Kodeks" consortium. Participants included representatives of the above-mentioned organizations, deputies, staff members of the Federal Guard Service, scholars of the Institute of State and Law of the Russian Academy of Sciences, educational institutions, and commercial organizations engaged in development and delivery of information-legal systems.

Head of the Law Department of the State Duma Apparatus G.P. Ivliev

emphasized in his report the necessity of association of efforts of state bodies and legal consortia with a view of further development of technologies of maintenance of legislative process, and noted importance of interaction with the Council of Europe at the stage of preparation of the international documents.

Experts of the Council of Europe Professor of Leiden University Wim Voermans (Netherlands), adviser of an official magazine of Belgium Wilfrid Verrezen, Director of Department of Federal Office of Austrian Republics Valtraut Kotchi spoke about practical realization of information technologies of the states.

In his report, the Head of Information-Analytical Department of the State Duma Apparatus N.A.

Vasetsky spoke about work of his department in the sphere of use of new technologies in legislative process.

Head of a sector of the Law Department of the State Duma Apparatus Doctor of Law A.P. Lyubimov delivered a report on "Account and ordering of the Russian legislation" in which he spoke about work of his sector on maintenance of normative legal acts in a control condition, and about an electronic data base of the information retrieval system "Law".

In his report "Use of information technologies in lawmaking the Russian Federation", Doctor of Law, head of sector of information of the Institute of State and Law of the Russian Academy of Sciences, I.L.

Bachilo spoke about functions of law in information sphere. He emphasized that federal laws "On normative legal certificates" establishing formal requirements of registration of legal acts, and law "On the right to the information" has not been adopted so far.

Lecturer from firm "Konsultant Plus" M.G. Ivanov considered questions of use and development of technologies that are used to inform general public on legislative activity, distributions of the information on results of legislative work, and also a new product of his firm called "Technology 3000".

Adviser of the Law Department L.L. Yefimova spoke about work of his department in the sphere of accounting and ordering of international legal acts.

L.L. Leonova. Cooperation of the Public Center of Legal Information of the Tula Oblast' Universal Scientific Library with Bodies of Local Self-Government

Creation of the public Center of Legal Information under auspices of the Tula Oblast' Universal Scientific Library allowed not only to assist citizens of the region in their access to current Russian legislation and official documents, but also to influence development of legal consciousness of the population.

Results of the analysis of needs of various groups of the population in the sphere of legal information led to creation of a joint project of the Center with the Tula Oblast' Duma. It includes meetings of law-makers with population

to discuss the most urgent draft laws; hold scientific and practical seminars to acquaint its participants with information resources of library and their use.

Recently, the Center has created "Club of Young Voters" to help the young generation to use their rights, including their electoral rights.

Summing it up, the Tula Oblast' Library and the Center serve as active intermediaries between local authorities and wide circles of population.

INTERNATIONAL TREATIES OF RUSSIA

L.Yu.Richtikova. International Treaties of the Russian Federation - a Part of Russian's Legal System

The states should aspire to compatibility of their social and economic and political-legal systems, and also to answer the generally accepted standards of democracy authorized in international law. Norms

of international law should prevail over internal legislation.

Growth of influence of international law made the states introduce special norms on human rights into their constitutions. Priority

of international law is a constitutional norm in Russia.

However, realization of international norms in Russia specifies a number of problems. The author discusses such problems.

For instance, decisions and official documents of the Council of Europe have superiority over Russian legislation. But they are practically not taken into account by the State Duma when drafting new laws.

CIVIL SOCIETY

George Hudson. Civil Society in Russia: Models and Perspectives of Developments

American scientist G. Hudson analyses civil society in Russia and publications a well-known Russian scholar Alexander Domrin on this subject.

The notion that human beings form groups voluntarily, apart from government, is not new. Known as “civil society,” this idea has been examined by philosophers from Socrates to Rawls. Only recently, however, has civil society appeared as a subject of study in Russia.

Alexander Domrin’s articles in Russian and American academic magazines focus on legal aspects of the development of civil society and offers an informative discussion of the term “civil society” in the Russian context.

George Hudson’s essay seeks to place Domrin’s article in a broader social and political context by considering several matters: an additional discussion of the term “civil society” and how it may be applied to Russia; models of civil society development, and how Russian civil society fits into a developmental scheme; and evidence of the growth of Russian civic groups.

The essay argues that a civil society, as defined below, is developing in Russia today and expresses cautious optimism for the future of voluntary, civic groups as a permanent part of Russian political life. In so doing, it provides a somewhat more sanguine view of civil society development than the one Domrin presents.

As Domrin correctly notes, the term “civil society” is widely used but often abused. Even so, like for the term “democracy,” scholars bear

responsibility to lend it an accurate meaning, as “civil society” is not likely to disappear from the scholarly and political lexicon.

Domrin conceives of Russian civil society as one in which the state is more closely related to various social and political groups than is the case in many Western nations. Yet some factors that have the potential to produce elements of independent civil society, in the common use of the term, are present in Russia today. For instance, the rights of free speech and assembly, which are essential for local associations to develop democratically, are embodied in the Russian Constitution and are practised daily throughout Russia by individual citizens and groups.

Students of Russian affairs must remember that the study of civil society demands a comparative approach. Russia should be compared both with its past history of civil society and with where it stands relative to other nations.

There are two basic ways that civil societies can develop, which depend partly on historical circumstances and traditions of political culture. The first is what we may term the “bottom-up” pattern in which civic groups form at the very beginning of the republic, virtually on a blank slate of society, and have a direct influence on how government is organized and practised. The United States provides the best approximate example of this. The “bottom-up” model, to summarize the discussion, forms a

pattern of influence in which civic groups form spontaneously and influence the government, directly or indirectly; the government produces policies that may or may not deal with group concerns: civic groups g government g policies and procedures. In turn, the policies and procedures affect the civic groups as “feedback” occurs, and the process goes on.

The second model forms the polar opposite of the first and is called the “top-down” version of the civil society. In this case, the government may initiate or otherwise encourage the formation of civic groups by creating policies and procedures that, in turn, yield the conditions for the groups to be established. Post-World War II West Germany provides a good example, in which the victorious allies imposed a democratic form of government upon the Germans, who then became socialized into democratic patterns of operation on national and local levels.

The “top-down” model may be summarized as a three-tier process. The government affects the nature of group formation by enacting policies and procedures, which create conditions for the rise of civic groups: government g policies and procedures g civic groups. As in the “bottom-up” model, feedback occurs when the civic groups act and in turn affect government to reinforce the process.

Russia finds itself typical of the “top-down” model. My view is that Russian attitudes toward civil society are moving from an extreme reliance on the

state to a somewhat lesser reliance in combination with greater local initiative.

One may propose four key components for the success of civil society in Russia in its “top-down” variant: the government should encourage the formation of civic groups; the government should limit its own power to reinforce its potential as a “carrier of liberalism”— those core values of civil liberties and civil rights within the context of a community that encourage civil society;¹⁵ civic groups should form as a response to government action; and the civic groups themselves should make their decisions democratically, according to commonly agreed rules.

The success and effectiveness of Russia’s civil society depends in large part on Russian economic development, which in turn depends on the creativity of Russian national and local leadership and the development of effective political institutions and processes. Russia has not yet progressed to the stage of state-building where the leaders, institutions, and processes are functioning as they should. Thus, civil society is also at an early stage. No one of serious stature in Russia is arguing for a return to the past, to the pre-1985 years, where associational groups were mostly a tool of the state. And so, we have reason to be optimistic that Russia will, however haltingly, progress to its own version of civil society— one not in the American style, but of its own making.

A.N. Domrin. Civil Society in Russia: a Historical Necessity or a New Wave of Social Experiments

Grazhdanskoe obshchestvo (civil society) is becoming the new mantra of the Russian government and the political elite in general. The term is widely used in the contemporary Russian political lexicon.

In a certain way, the use of the term *grazhdanskoe obshchestvo* is following the pattern of the use of another

concept more than ten years ago— *pravovoe gosudarstvo* (*Rechtsstaat*, or “law-governed state”). Back in June 1991, Alexander Domrin wrote in a report prepared for the U.S. Congressional Research Service that “voluntary or involuntary lack of consensus on the meaning of the rule of law, broad interpretation of the term, and attempts

to use it in political demagoguery as a populist tool lead to outright abuses of the concept.” So too might the indiscriminate use of “civil society” in Russian political doublespeak today lead to similar consequences. The more politicians speak about “civil society,” the less meaningful it becomes.

Despite of wide use of this term in political demagoguery, rehabilitation of this concept of the Russian society and a science in itself already is the significant and positive phenomenon.

In his article, Alexander Domrin formulates certain common and more or less accepted (among Russian scholars) approaches.

Unlike their Western counterparts who consider civil society an “intermediary phenomenon, standing *between* the private sphere and the state,” “an *autonomous*, self-regulating domain *independent* of the State,” thus placing a dividing line between civil society and the state, Russian scholars and policymakers tend to interpret the “law-governed state” as a political manifestation (*ipostas'*) of “civil society.” Rule of law is unquestionably a key element in sustaining the development of civil society, but a law-governed state is viewed not as if it is separated from civil society, but as a reality, which is based on the latter. Russian scholars understand the relationship between the law-governed state and civil society to be one of form and substance, as a balanced, mutually restricted collaboration. Civil society is interpreted not as diminishing the law-governed state, but rather complementing and completing it. Overall, Russian scholars are hesitant to consider civil society as the uncontrolled realm of individuals. Following Hegel, they tend to conclude that civil society does not exist before the state or outside of it.

The state provides protection to civil society, including protection of citizens' life and health, and maintenance of law and order. In the Russian interpretation, civil society

cannot be established at the state's expense. The state is responsible for maintaining social justice in the country and approximately equal levels of material wealth for its citizens. With its protective foreign and defence policy, the state exercises its role as the ultimate guarantor of the existence of civil society and the Nation.

To become successful, development of a civil society in Russia should be accompanied by strengthening of the Russian statehood.

Vladimir Putin inherited a crushed, looted, and humiliated country struggling to survive the “liquidation regime” of the “reformers.” In just ten years the country has lost about 44 percent of its GDP. Russia's population has been shrinking by up to half a percent a year, and its increase in mortality rates (60 percent since 1990) has been “unprecedented in any country during peacetime since the Middle Ages” (Murray Feshbach). After ten years of anti-human “reforms” Russia ranks 134th among all states in terms of male life expectancy, and 100th in terms of female life expectancy (by 1997, the death rate among Russian males had equalled that of war-ravaged Liberia). Men in “democratic” Russia have a smaller chance of surviving to age 60 than under the tsar a century ago. The country has more homeless children today (between one and two million) than after the Bolshevik Revolution or World War II.

An unprecedented social catastrophe in Russia, which the UN Development Program calls “a human crisis of monumental proportions” and which has been largely ignored by the Western community, makes any discussion of “civil society” in Russia today even more artificial and irrelevant than ten years ago. The concept of civil society implies a relatively high level of well-being. Destitute people are unable to form a civil society. At the turn of the twenty-first century, the Russian nation must first concentrate on stopping the depopulation and

degradation of Russia and on overcoming the disastrous consequences of Yeltsin's regime, rather than on involving the country in another round

of radical economic "reforms" and futile social engineering. Otherwise, there will be no Russia or Russian society, whether civil or uncivil.

FIGHT AGAINST TERRORISM

O.A. Stepanov. On Measures of Prevention of Information and Electronic Terrorism

Information technologies define character of a modern society. Production of information and its management are real factors of maintenance of geopolitical stability.

The state policy can play a big role in the field of protection of results of intellectual activity.

Each country should take necessary measures for classification as a criminal offence illegal access to and interception of information-electronic

data, damage, removal, deterioration, change or blocking of information-electronic data, deliberate creation of serious problems to functioning of an information-electronic network.

The given problem is becoming really important. It is necessary for the international community to agree on a complete ban of tests and production of hazardous biotechnologies and on measures of prevention of experiments with such biotechnologies.

TAXES AND EDUCATION

N.V. Schitova. Taxation of Educational Institutions

In January of 2002, Chapter 25 of the Tax Code of the Russian Federation came into effect. Among other things, it eliminated tax exemptions for educational institutions.

The State Duma of Federal Assembly of the Russian Federation continues to work on several drafts of federal laws which would allow to restore tax positions of educational institutions.

Authors of some of those legislative initiatives suggest to add a list of such incomes which should not be taken into account when calculating the

"profit tax" of educational organizations, for instance, grants and free humanitarian aid to them.

The main obstacle in a way of introduction of these bills is that they conduct to reduction of taxable base under the "profit tax" of such organizations and accordingly reduce profitable base of budgets of all levels of budgetary system of the Russian Federation. The Government of the Russian Federation and representatives of educational institutions and public interests haven't reached a consensus on this subject yet.

CULTURE AND LAW

V.D. Sysoev. Fruits of Art and Law

D.N. Fonvizin was one of the first Russian writers who wrote about freedom of a person from all forms of oppression. He was a convinced

opponent to unlimited and "lawless autocracy".

Fonvizin was born in Moscow on April 3, 1745. Fonvizin was a decent person and true Christian. In April of

1755 he entered a grammar school in the Moscow University. Denis studied with diligence and was among the best pupils. Later Fonvizin got acquainted with theatre. It happened in 1760 when he was sent to Petersburg and was introduced to I.I. Shuvalov supervising the Moscow University.

Later Fonvizin mastered French and German. In 1761 Denis became a student of philosophical faculty of the Moscow State University. But he had to interrupt his studying. In the spring of 1762 an imperial court yard on Katherine II' arrived to Moscow. Fonvizin was introduced to vice-chancellor A.M. Golitsyn.

He worked as an interpreter in the Ministry of Foreign Affairs. In 1763 Denis arrived to Petersburg. As a civil servant, he has a rank of the 9-th class and was equated to a grade of the titular counsellor.

Fonvizin wrote verses and translated foreign plays. Making use of experience of France, Fonvizin developed a program of improvement of the social system of Russia.

Fonvizin wrote a comedy called "Nedorosl" which became a masterpiece of Russian and world drama. Ignorance, avidity and roughness are the background of this comedy. The place to a reasonable sight at a state system was found. The author stands up for nobleness, philanthropy.

The great playwright had impudence to be ahead of time and not to resemble others.

Death prevented Fonvizin from finishing a comedy "The Choice of a Tutor". Denis Ivanovich lived only 47 years, but his name will always be a part of the Russian and world literature. Fonvizin died on December 1, 1792 in Petersburg, and was buried there.

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