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Stages and Legal Basis of the Formation of Civil Society

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ANNOTATION

The article examines the emergence of ideas about civil society, the importance of its place in the life of society. Along with this, the philosophical and legal aspects of civil society are revealed by the author on the basis of an in-depth analysis. In the article, along with the analysis of theories concerning civil society, the author provides his own opinions and judgments. In addition, the article discusses, analyzes and gives practical recommendations on modern concepts of civil society.

KEYWORDS: Citizen, citizenship, society, social morality, civil movement, modernity, pluralism, partisanship, state power, development of society.

Introduction

There are many definitions of "civil society". Most theories of civil society are characterized by a desire to more or less clearly define the relationship between the private and public spheres, the individual and the public, public ethics and individual interests, the needs and desires of the individual and social needs.

There are different approaches to the definition, structure, elements, functions of civil society. Most often, civil society is understood as a sphere of society characterized by self-government of individuals and associations and organizations of citizens, created on a voluntary basis, protected from direct interference and arbitrary regulation by state authorities. For some researchers, it is also associated with existing Western democracies, distinguished by a multi-party parliamentary system, i.e. pluralistic democracy: individual freedom, diversity of property relations; the rule of law.

The emergence and development of ideas about civil society goes back to antiquity. The notion of "civil society" did not arise in the 20th century, but in Ancient Greece, with Greek philosophers and in Rome, where the initial ideas were reflected in Aristotle's "Politics" and Cicero's "Law", as well as in the "State" - in the concept of philosophical concepts of law and state. Although Cicero's ideas were largely based on the teachings of Aristotle and the Sophists, he developed them to some extent. Greek philosophers primarily meant the state within the framework of civil society. In particular, there is historical evidence that the culture of law-based management of society has been formed since ancient times. For example, in the Chinese historical work of the 6th century "Beishi" there is information about the state of affairs in our country: "They have a collection of Turkic traps that were kept in the temple. If they disbelieve in God, they will be the losers. That is, punishment for crimes committed not by any man but by certain legal norms that have the same force for all.

Discussion

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There are different approaches to the definition, structure, elements, functions of civil society. Most often, civil society is understood as a sphere of society characterized by self-government of individuals and associations and organizations of citizens, created on a voluntary basis, protected from direct interference and arbitrary regulation by state authorities. For some researchers, it is also associated with existing Western democracies, distinguished by a multi-party parliamentary system, i.e. pluralistic democracy: individual freedom, diversity of property relations; the rule of law.

The notion of civil society has a long and complex history. Its use began in the 17th and 18th centuries, and its basic meaning is that civil society should have its own laws and not be dependent on cruel arbitrariness on the part of the state. Historically, this concept goes back to the Latin family of words *civic*, *civilic*, *civitas* (citizen, citizenship, city, state). It concerns civil society, its civic qualities and duties, and cultural behavior. The main problem with defining civil society is that civil society has two aspects, social and political. From Aristotle to John Locke, these two spheres were seen as an inseparable whole. There was no such civil society. Society, the state, the civil person were one social and political whole. Societies were political societies, and this has persisted since John Locke wrote his *Second Treatise on Government* in 1690.[2] One of its chapters is called "On Politics and Civil Society". John Locke believed that society was different from nature. Furthermore, civil society is incompatible with an absolute monarchy. At the same time, it was also seen as a political unity ("body"), and for John Locke, the social contract and the citizens' contract with the state were one and the same. Throughout the century, the terminology changed with new interpretations. In Adam Ferguson's "Experience in the History of Civil Society" (1767) [3] the distinction between the political and the social spheres is noted. About the same time, J. In articles in *The Federalist*, Madison emphasized the role of civil society as a balance against arbitrary government. He believed that there were different groups in society with many aligned interests. In this sense, civil society is a defender of human rights. In the 19th and 20th centuries, many began to understand civil society as a society of people, others saw it as an element of political organization. Interestingly, some see civil society as a source of support for the existing political system, while others have turned it into a center of opposition. Thus, in the Anglo-Saxon world, civil society and the state are usually seen as complementary rather than antagonistic forces, so the notion of "civil society" has lost its meaning there. In many European countries, civil society has been seen as a source of opposition to the state, as the state's activities were limited to interfering in the private and corporate lives of citizens. In both cases, civil society has three characteristics. First, there are a lot of alliances, a lot of social power centers. In this sense, civil society is incompatible with a rigid, autocratic state machine. Second, the relative independence of these social power centers. These power centers, because of their ability to self-organize, resist government control. Thirdly, civic responsibility, as well as responsible action and active citizenship, are all necessary elements of a genuine civil society. Civil society, though sometimes enlightened, had to defend its rights in the struggle against the state, which was unwilling to relinquish power.

Results

In a society, laws create the need for a coordinating mechanism that keeps them from freezing over. Citizens should be aware that the law is the only force that governs the relationship between people and the state, society.

First, any definition of the term "civil society" means that it is linked both historically and theoretically to the term "state". A lot of what happens in the life of a person, including the different spheres of life, happens in the life of the state and society. On the one hand, an individual does not live outside the state, on the other hand, the legal consolidation of the human (moral) image of a person and the rights and freedoms of a person can only be obtained in the state. Thus, in our opinion, the legal powers of the state are manifested in the adoption of laws containing rights and freedoms, as well as in the adoption of laws related to duties, while the principles of state law are transferred to the individual without excluding the private law nature of rights and freedoms.

On the one hand, the development of civil society is carried out not only within the framework of personal interests, but also with the participation of state power and the involvement of state bodies in the sphere of private law (both directly and indirectly). After all, the state is a multifaceted phenomenon that "penetrates" not only the sphere of state interests, but all layers of social life. For example, the life of citizens in our country is different from the life of the indigenous population in Germany or China, and this difference is manifested not only in the ethno psychology, but also in the model of the socio-political and legal systems that exist in these countries. The most important task facing the state and society in any country is to eliminate the "triangle of distrust": from the state to society and from business to the state and society, from society to the state and business. The systematic theory of modern civil society was developed by the American researcher Jean L. Cohen and E. Aratos has the most experience. They devoted their scientific work to the problems of civil society, making it the basis of socio-political theory. This work was first published in 1992 in the United States. By A. The money, T. Parsons, the X. Arendt, by N. Lumanne proposes his theory of civil society, drawing on the theoretical views of K. I'm not sure. Fuco, G. What are you doing? Habermas and other famous researchers, while emphasizing the basic character of Hegel's concept. It's shaping the way we build and rebuild civil society in the West. In their opinion, "modern civil society is created through certain forms of self-creation and self-mobilization.

Laws are institutionalized and generalized through subjective rights, which, in particular, stabilize social differences. So, the recommended five-part model:

sociopolitical: society is the state is the civil society;

Economic: society is an economy is a civil society.

And here comes another danger. Two hundred years ago, Russian public and state figure, reformer M.M. Speransky (1772-1839) believed that it was possible to combine absolutism and the synthesis of civil society, authoritarianism and legality, the regulation of social relations by law, the property-hierarchical system and the free person. Considering an unexpected grant of freedom as dangerous, M.M. Speransky wrote: "It is necessary to distinguish between two forms of social freedom: freedom for the people and freedom of the people. The first is the freedom of the worker, the second is the freedom of the elite. The first is the freedom of laziness, the second is the activity"[1]. Despite the fact that M.M. Speransky did not live in the era of civil society, he tried to give a correct assessment of the issues of freedom and relations between the state and its citizens, which are relevant for all times.

A characteristic feature of civil society is the existence of contradictions, conflicts and competition, which are the main forces of its development. Conflicts, conflicts and competition inevitably arise in the process of interpersonal relationships. Some people just become tools for other people. The German philosopher Hegel wrote: "Civil society is the struggle for the personal interests of each person",[5] or: "Civil society is the

struggle for the personal interests".... At the same time, the category of "state" always requires a conditional password from the researcher: it is a system of power or an administrative apparatus, a geosocial-political space organized by a corporation, or a population organized by an institution - all this is combined with the development of "similar opinions". Otherwise, it should be said that "civil society is called upon to follow the state". In addition, the incompatibility between the concepts of 'society' and 'civil society' should be taken into account.

In general, civil society is the basis of democratic social organization. The development of civil society creates the basis for democratic forms of state. Conversely, a less developed civil society indicates the existence of authoritarian and totalitarian state authorities. The degree of human freedom, the breadth of the rights and freedoms of man and citizen, as well as the guarantees of their implementation in each specific case depend on the state power. These are all postulates of classical civil society theory. Many German philosophers expressed the opinion that the development of civil society should follow the development of the state. Thus, civil society is secondary to the state, inevitably participates, but to the maximum extent shapes civil society or creates conditions for the emergence and development of its institutions. The state is more important than the historical reality and power, which is divided into the lower part of the upper power.

In other words, the postulate of the classical theory is completely opposite: a developed authoritarian or totalitarian state has no possibilities and conditions for the existence of several institutions of civil society, since it destroys many civil society organizations through nationalization, leaving room for a rigid ideological course. This definition is also explained by the fact that there have been periods in our history of full-fledged civil society.

If civil society has human rights, the state guarantees the rights of citizens. In both cases, the rights of the individual are expressed both in the first case - the right to life, liberty, the pursuit of happiness, and in the second case - the social and political rights to life. The basic condition for the existence of a civil society is to ensure the right of the individual to self-consciousness, personal freedom. G. Hegel believed that civil society in dialectical movements underwent a long and complex historical transition from family to state, that is, from the Middle Ages to the New Age. Civil society, he says, is the separation between the family and the state, although the development of civil society lags behind the development of the state. [6]. G.Hegel defined civil society as " the transition from the family to the state " , which was later used by M.M. It is described in the Handbook on the Knowledge of Laws by Speransky.[7] He believed that, knowing that society is limited and cannot satisfy human desires forever, blaming the state and demanding more from it is the disease of our age. In this case, the demarcation of borders does not restrict the freedom of civil society. For M.M. Speransky (according to Hegel's teachings) believes that in their own desires, which, on the contrary, have no limitations (according to Hegel, this is "War of all against all"), the freedom of civil society testifies not to the order of civil relations, but to social lawlessness.

In modern theories of philosophy and law, the analysis of the three main components of civil society is defined as follows:

the development of public associations that carry out a significant part of socially significant functions; the existence of a " transparent " government and parliament;

its transparency is reflected in the fact that it is under public control and linked to citizens ' assessments;

the existence of a dialogue between governmental and non-governmental organizations within the framework of " de jure " requirements;

in other words, the formation of legitimate ways of exercising public control over the activities of executive power structures and influencing the process of political decision-making.

In the 21st century, the state and development of civil society has become one of the most important issues of social and political science in the study of increasingly complex social and political problems around the world. A state aiming at the establishment of the rule of law should be interested in the timely transfer of part of its tasks and responsibilities to non-state public institutions and civil society. From this point of view, the strategic goal of our country is the formation and development of a civil society in which the state and non-state institutions are not opposed, but the achievement of ensuring their sustainable and dynamic development and interaction.

The principles of periodic development and formation of the non-state sector can be observed in the works of foreign scientists such as D. The Bible's answer to that question is found in the book of Proverbs. Hydran, by R. M. Kramer, this is X. Ruddle, R. What are you doing? I'm not sure. M. Solomon is the king of Israel. In particular, L. M. Solomon's research focuses on the problems associated with cooperation agreements between the government and the non-governmental sector and its activities for the benefit of society.

At present, with the development of civil society institutions, social, economic and psychological conditions are being created for the decentralization of state administration. This process is one of the main conditions for the liberalization of public administration and administrative reforms. One of the main elements of civil society are customs, traditions of the primary association of people (their various associations), personal and productive life of people, people's self-government and corresponding education. The peculiarities of a strong civil society are that in the development of democratic principles, a large place is given to the activities of civil institutions, which carry out public control in society, interact with state institutions in identifying and eliminating problems that remain without the attention of the state.

What is civil society? To understand the role of civil society, it is necessary to start with a broader view of social relations in any democratic or democratized system. American researchers Juan Lins and Alfred Stepan[9] have identified five interacting and complementary forces in the field of democratization:

- the civil society;
- the political elite;
- the economic community (business);
- the scope of the legislation;
- The government bureaucracy.

We know they interact. To understand this diagram, we need to understand a few key points. First, there is a big difference between the formal (social) sphere and the personal life, which is defined by a thin line separating family and informal, friendship, civil society and other spheres. This is due to a significant difference in social activity in a narrow circle of relatives and friends from activities that generally involve people with broad connections to other forms of society. In other words, it's a qualitative difference, and it's easy to explain this view in a natural and opposite way. The positions of civic self-organized structures in relation to communist regimes are more theoretical than political analysis. However, this is less relevant for democratic states or democratized states, where the relationship between states and civil society is more dynamic, interactive and interconnected. Professor Michael Walzer (English: Michael Walzer) is a professor

of physics at the University of California, Berkeley, where he is also a professor of physics. Michael Walzer) wrote: "Only a country in which democracy exists can create a civil society, only democracy can strengthen an existing country".[10] In fact, in many articles based on empirical research, the authors provide compelling evidence of the direct confrontation between the state and civil society in a democratic context.

Institutional attention to the direct political impact of civil society may extend to individuals. As Emma Guttman notes, "We don't have access to associations that are willing and able to express our views and our values, and unless we are rich and famous, we have no opportunity to be heard or to influence the political process". In the words of Alexis de Tocqueville, "A union unites the energies of different minds and directs them to specific ends". In short, membership in organizations brings direct and tangible benefits to individuals and society by giving people the ability to influence the processes of achieving collective goals that affect their own lives and cannot be achieved by other goals.

Conclusion

The experience of participating in civil society organizations enables people to become more aware of their role in the field of participation, contributes to the formation of socially literate and engaged citizens. The more people involved in civil society organizations, the more successful they are in acquiring the principles, values and skills of cooperative democracy, which can strengthen institutions and contribute to the functioning of democratic government. Emphasizing the social-psychological side of mutual understanding and cooperation in public organizations whose members generally benefit society, historical institutionalists note conflicts between groups and the struggle to create the conditions for the development of modern democracy. According to researcher T. Scochpol and Fiorina, "from an institutional point of view, voluntary associations are important not only as an instrument of civic participation and an accumulator of public trust, but also as a means of mass influence". In modern times, the institutional approach emphasizes the ability of civil society organizations to protect citizens from potential threats from the state. In a democratic system, its organizations prevent the state from enacting laws that are contrary to the organized interests of citizens. In addition to this important protective function, voluntary civil society organizations can also have a positive impact on law-making and public interests.

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