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СОЦИАЛЬНАЯ ФУНКЦИЯ ГОСУДАРСТВА: ПОНЯТИЕ, СОДЕРЖАНИЕ, ПРОБЛЕМЫ РЕАЛИЗАЦИИ

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Аннотация

В статье преимущественно в научно-теоретическом аспекте исследуются некоторые вопросы, отражающие понимание социальной функции государства применительно к современным реалиям. Затрагивается Конституция РФ как источник норм, обеспечивающих воплощение социальной функции государства в России, и обосновывается практическая значимость теоретических вопросов, связанных с пониманием данной функции. Обращается внимание на наличие условного деления российского населения на две категории по уровню материального благосостояния, что опосредует необходимость активного участия государства в экономике в рамках реализации социальной функции, в целях нивелирования существенного разрыва в благосостоянии. Выделены некоторые подходы, с позиции которых рассматривается социальная функция государства и подчёркивается принципиальное различие понятий «социальная функция государства» и «функции социального государства». Отмечена обусловленность реализации социальной функции государства рыночным характером экономики. Указано на непостоянство понимания социальной функции государства и её обусловленность, в том числе, уровнем развития государства. Сделанный вывод о необходимости первоочередной ориентации не на предоставление готовых социальных благ, а на формирование благоприятных условий гражданам для самостоятельного создания (или) или получения таких благ.

Ключевые слова: государственные гарантии, государство, Конституция РФ, обязанности государства, социальная политика, социальная функция государства, меры социальной поддержки, социальное обеспечение, функции государства

Original article

SOCIAL FUNCTION OF THE STATE: CONCEPT, CONTENT, PROBLEMS OF IMPLEMENTATION

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Abstract

The article mainly examines some issues reflecting the understanding of the social function of the state in relation to modern realities from a scientific and theoretical perspective. The article touches upon the Constitution of the Russian Federation as a source of norms ensuring the implementation of the social function of the state in Russia, and substantiates the practical significance of theoretical issues related to the understanding of this function. Attention is drawn to the existence of a conditional division of the Russian population into two categories according to the level of material well-being, which mediates the need for active government participation in the economy as part of the implementation of a social function in order to offset a significant gap in well-being. Some approaches are highlighted from which the social function of the state is considered and the fundamental difference between the concepts of "social function of the state" and "functions of the welfare state" is emphasized. The conditionality of the realization of the social function of the state by the market nature of the economy is noted. It is pointed out that the understanding of the social function of the state is unstable and that it is conditioned, among other things, by the level of development of the state. The conclusion is made about the need to prioritize not the

provision of ready-made social benefits, but the creation of favorable conditions for citizens to independently create (or) receive such benefits.

Keywords: state guarantees, the state, the Constitution of the Russian Federation, duties of the state, social policy, social function of the state, measures of social support, social security, functions of the state

Introduction

In the theory of state and law, among the basic problems can be identified the problem of determining the functions that it should perform. And we are not talking about the functions that it assumes formally, providing for the relevant norms in the basic law of the country (constitution), but about those that seem important from the point of view of the modern scientific view of the state, from the point of view of state-legal doctrine.

Questions concerning the interpretation of the social function, the definition of its content, and the definition of ways to implement it are controversial not only in practice, but also in the scientific and theoretical aspect, since modern science presents a lot of opinions on each of the significant aspects, despite the presence of some general vision of the social function as an important component of the activity of a civilized state governed by the rule of law. In this regard, it is important to understand the key aspects of this issue and present some suggestions that will help at least partially concretize some controversial issues related to the theoretical understanding of the social function of the state, including from the point of view of modern Russian law.

The main part

The problem under study is by no means exclusively theoretical, since it is closely intertwined with the problems of legislative regulation, primarily regulation within the framework of constitutional law and social security law. However, in this study, the main emphasis is placed on the scientific and theoretical component, namely, on understanding the nature of social functions, its content and justification of its significance in general.

Describing the inseparable connection with the practice of legislative regulation. Let us point out some norms of the Constitution of the Russian Federation [1], which embody, if not practical, then at least formal implementation of the function under consideration.

First, Article 7, where the Russian state is referred to as a social state, which is expressed in the declared orientation of its policy towards ensuring conditions for a decent life and free human development. In addition, this article lists a number of significant components of the social function, in particular:

- the minimum wage;
- state support for the family, motherhood, fatherhood, and childhood;
- support for disabled and elderly people;
- development of the social services system;
- provision of state pensions, allowances and other social guarantees (guarantees of social protection).

In addition, the Constitution of the Russian Federation contains some other norms that reflect the social orientation of Russian politics, in particular, Article 13 prohibits incitement to social discord, Article 19 provides for equality of guarantees, including the prohibition of restrictions based on social affiliation. In a number of constitutional norms, the State, represented by State authorities, is entrusted with the implementation of specific social functions (duties, powers). That is, there is no doubt about the practical significance of the social function, but from the point of view of its theoretical understanding, some difficulties arise, which are important to pay attention to precisely because of their connection with the practice of constitutional development.

Certain reasons for understanding the social function can be seen in the presence of a conditional division of Russian society into two parts:

- well-off individuals, including those who have super-incomes;
- the bulk of the population, whose social standard of living is at or close to the level of poverty [8, p. 4].

Of course, this division is very conditional, if we talk about specific statistical data, but from the point of view of theoretical understanding of the social problem, this division is quite understandable and appropriate. It contains quite clear contradictions that the state should level out precisely in the framework of the implementation of the social function.

Certain contradictions in the understanding of the functions of the state as a whole, and the social function in particular, are caused by differences in approaches that are chosen by different researchers. For example, the following functions are considered:

- in the context of an activity-based approach (as the activity of the state);
- in the context of the subject-policy approach (as the direction and content of the policy);
- from the point of view of the socio-teleological approach (as a manifestation of the social purpose of the state) [8, p. 14].

Of greater interest is the latter approach, where social functions are seen precisely in the purpose, in the role of the social function.

In addition, from a legal point of view, the literature also identifies three aspects of understanding the social state, depending on the interpretation of the concept of "social":

- social is understood in the general sense as social.
- social reflects the social status of a person, his relationship with society;
- social means consideration of issues in the economic (socio-economic) aspect, from the point of view of providing benefits (socially significant benefits) to members of society [8, pp. 18-19].

In this article, the author focuses on the third approach, understanding *the social state as a state where a certain level of well-being is provided, and this and such provision of the level of well-being is the main purpose of the state.*

Of course, the social function of the state is inextricably linked with other functions [8, p. 33], however, this does not prevent its special allocation and consideration as relatively independent.

The idea of the social function of the state can be considered the result of centuries-old confrontation between unprivileged and privileged classes and the development of philosophical ideas about the state and law. Moreover, these ideas were especially actively developed in Modern times by such thinkers as J. R. R. Tolkien. J. Rousseau, A Saint-Simon, S. Fourier, R. Owen [8, p. 17].

Of course, the lessons of the October Revolution of 1917, as well as the policy of the Soviet state throughout the entire period of its existence, could not but affect the formation of modern ideas about the social state, because the Soviet Union was one of the first states to provide real guarantees of social protection for working citizens, including in terms of limiting the length of working 8-hour working day) and providing opportunities for recreation [2], although the idea itself was originally outlined 100 years before the Revolution by R. Owen in the form of the slogan: "Eight hours is work. Eight hours of rest. Eight hours of sleep" [6, p. 182].

Of course, in the modern theory of state and law, the understanding of the social function has radically expanded in comparison with what it was at the beginning of the twentieth century, and now the essence of this function is interpreted fundamentally differently – in the context of all aspects of human existence in the economy. This provides the basis for an extended definition of the content of this function.

Taking into account the extremely broad understanding of the social function, the following three components can be distinguished in its content:

- protection of a person from social risks that exist in economic realities (in relation to Russia and most countries of the world, these are risks of a market economy);
- creation of prerequisites (conditions) for the development of the social sphere of society;

- distribution (redistribution) of socially significant material resources in the interests of the entire society and the state [8, pp. 43-70].

Therefore, the social purpose of the social function and its role is seen, among other things, in creating a certain balance in society. Moreover, the main reference point for ensuring this balance is the economic aspect of human life, since it is the economy that is the foundation on which all other conditions for a prosperous life are created, including those that have an intangible component, but depend on it (culture, education, healthcare, certain spiritual values).

Yu. N. Belyaeva considers the functions of the social state as directions of its activity, directions of its policy, ensuring the formation of a standard of quality of life of the population, improving the quality of life of the population and the absence of need for state assistance [4, p.102]. This approach generally reflects the content and social function of the State. However, it is important to emphasize the fundamental difference between the social function of the state and the functions of the social state: the social function of the state is precisely an activity in the social sphere; as for the functions of the social state, they do not always have a social orientation, so the concept of "function of the social state" is broader than the concept of "social function of the state".

N. V. Antonova and O. Y. Eremina write about social functions (specifically in the plural), seeing them in the state system of social protection and social security, which is aimed precisely at ensuring proper living conditions and providing means of livelihood [3, p.91]. While we agree with this vision as a whole, let us note that the provision of funds is only one of many aspects of the implementation of a social function. And, of course, this function can never be reduced to providing something, especially in a market economy.

In the theory of state and law, however, the question of expanding or narrowing the social function remains controversial for many years, especially in the post-Soviet period, despite the fact that the norms of the Constitution of the Russian Federation

declare Russia as a social state. At the same time, of course, no one questions the need for the state to perform this function.

Professor O. V. Martyshin points out the negative attitude of supporters of the idea of the social state to economic liberalism, while emphasizing that the idea of the social state is based mainly on the works of representatives of socialist and communist theories [7]. While recognizing the presented position as reasonable, we note that supporters of economic liberalism are also no strangers to the idea of a social state. The only difference is in the range of social guarantees that are considered necessary to provide the population with one and the other. In this regard, supporters of a liberal economy, of course, are in favor of a less extensive range of social guarantees.

Recognizing the controversial issue of the breadth of social support measures (social assistance), reflecting the implementation of the social function, we should agree with I. M. Blokhina and her co-authors that the social function of the state in relation to Russia, of course, should include measures to overcome poverty and improve the well-being of the general population, including ensuring access to health care and education, assistance in providing comfortable housing, and stimulating the birth rate [5, p. 261].

That is, the social function in some cases can be realized by directly providing a certain good, in others - by creating conditions for citizens to receive it independently. This issue is implemented differently for each component of the social function, and it is hardly possible to offer a single approach.

We consider it possible to agree with G. N. Tarasova that at the moment there has been a certain shift in understanding the quality of life [9, p. 156]. In this sense, the understanding of a social function cannot always be interpreted in the same way, at least in terms of its content and individual elements. Therefore, of course, the social function of the state is a dynamic category, largely depending on the level of development of the relevant state, the specifics of certain areas of its policy. And it is quite natural to have an excessively broad understanding of the social function of the

state in the conditions of the socialist order and a narrower one in the conditions of the capitalist order.

Conclusion

The social function of the state, in the author's opinion, should be considered as an integral basis of a civilized modern state governed by the rule of law, which is necessary not only to ensure an acceptable (maximum possible) level of well-being of the population, but also to steadily increase this level. This is a dynamic category, largely determined by the real capabilities of the state, and largely dependent on the current political, economic and legal order. Therefore, the social function is certainly considered more broadly within the framework of a socialist state than in the context of a capitalist state.

Taking into account the specifics of the Russian legal system and the Constitution of the Russian Federation, which guarantees economic freedom to the population, the social function of the state should be considered taking into account this factor and should be focused mainly not on providing ready-made social (material) goods, but on creating favorable conditions for their independent creation and (or) receipt.

Список литературы

1. Конституция Российской Федерации : принята всенародным голосованием 12 дек. 1993 г. (с изм., одобр. в ходе общерос. голосования 1 июл. 2020 г.) // Рос. газ. 1993. 26 дек.; 2020. 2020. 4 июл.
2. О восьмичасовом рабочем дне: Декрет Совета Народных Комиссаров от 29 окт. 1917 г. – утратил силу // СПС «КонсультантПлюс».
3. Антонова Н. В., Еремина О. Ю. Социальные функции государства: новые векторы развития // Журнал российского права. 2020. № 12. С. 89–102.
4. Беляева Ю. Н. О социальных функциях государства // Журнал российского права. 2016. № 1(229). С. 99–106.

5. Блохина И. М. [и др.] Социальная политика и ее основные направления в Российской Федерации // Вестник Академии знаний. 2021. № 44(3). С. 256–261.
6. Зиновьев Г. Е. Сочинения. М.; Пг.; Л.: Госиздат, 1923-1929. Т. 6 : Партия и профсоюзы. 1929. 645 с.
7. Мартышин О. В. Идея социального государства и ее противники // Государство и право. 2011. № 12. С. 5–15.
8. Парий-Сергеенко Е.П. Социальная функция современного Российского государства: монография. Ростов н/Д: Профпресслит, 2020. 127 с.
9. Тарасова Г. Н. Качество жизни и социальные функции государства // Образование и проблемы развития общества. 2020. № 3(12). С. 150–157.

References

1. Konstituciya Rossijskoj Federacii : prinyata vsenarodny`m golosovaniem 12 dek. 1993 g. (s izm., odobr. v xode obshheros. golosovaniya 1 iyul. 2020 g.) // Ros. gaz. 1993. 26 dek.; 2020. 2020. 4 iyul.
2. O vos`michasovom rabochem dne: Dekret Soveta Narodny`x Komissarov ot 29 okt. 1917 g. – utratil silu // SPS «Konsul`tantPlyus».
3. Antonova N. V., Eremina O. Yu. Social`ny`e funkcii gosudarstva: novy`e vektory` razvitiya // Zhurnal rossijskogo prava. 2020. № 12. S. 89–102.
4. Belyaeva Yu. N. O social`ny`x funkciyax gosudarstva // Zhurnal rossijskogo prava. 2016. № 1(229). S. 99–106.
5. Bloxina I. M. [i dr.] Social`naya politika i ee osnovny`e napravleniya v Rossijskoj Federacii // Vestnik Akademii znaniy. 2021. № 44(3). S. 256–261.
6. Zinov`ev G. E. Sochineniya. M.; Pg.; L.: Gosizdat, 1923-1929. T. 6 : Partiya i profsoyuzu`. 1929. 645 s.
7. Marty`shin O. V. Ideya social`nogo gosudarstva i ee protivniki // Gosudarstvo i pravo. 2011. № 12. S. 5–15.
8. Parij-Sergeenko E.P. Social`naya funkciya sovremennogo Rossijskogo gosudarstva: monografiya. Rostov n/D: Profpresslit, 2020. 127 s.

Tarasova G. N. Kachestvo zhizni i social'ny'e funkcii gosudarstva // Obrazovanie i problemy` razvitiya obshhestva. 2020. № 3(12). S. 150–157.