THE MINISTRY OF EDUCATION

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THE ABSTRACT

On discipline: the Government

On a theme: Historical measurement of the science of governing

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The government theory is one of most important and perspective directions of the modern political thoughts. Political sphere from the complete, not divided human society, branch of the world political from economic, social and spiritual subsystems has occurred enough late. Originally political phenomena were studied in frameworks dominating paradigms in connection with the general complex of the public phenomena.

Within almost two things - since times of Antiquity and up to XIX century - all knowledge of the social phenomena were uniform complete system. But already Aristotle (384-322 BC) gave to the doctrine about the government dominating value. All the public life, in its opinion, kept within frameworks of a political life and was placed in the service of the state. He underlined: «As the science about the state uses other sciences as means and, besides, legislatively defines, what acts should be made and from what to abstain, its purpose includes, probably, the purposes of other sciences, hence, this purpose also will be the higher the blessing for people ».

Antique philosophers considered state occurrence as natural process of complication of forms of a hostel of people, this concept has received the name of the patriarchal theory of the state. Aristotle has offered one of the first such hypothesis: in the beginning people have united in families, then some families have formed settlement, and at a finishing stage of this process there was a state as the form of a hostel of the citizens using a political system.

Aristotle underlined: in all people the nature has installed aspiration to the state dialogue and the first who has organised this dialogue, has rendered to mankind the greatest blessing. Within the limits of the patriarchal theory the state is considered as the big family where relations of the governor and its citizens are identified with relations of the patriarch - the chief of family and members of his family.

Crisis of the antique policy has forced known antique philosophers to address to a problem of strengthening of the government, a consent and order guarantee in a society. Platon (427-347 BC) places special emphasis on the government prime target - achievement of integrity of a society through maintenance of the consent of all public estates. He underlines: «We still in the beginning when based the state, have established what to do it is necessary by all means for the sake of whole. And so this whole also is justice...»

 he most dangerous tendency destroying the government, Platon considered aspiration of some public groups to depart from service to general welfare, usurping public functions for extraction of personal benefit. In Platon's ideal state the guards knowing safety, should not use gold and silver, could not even touch them, be decorated by them or drink from gold and silver vessels. Platon warned: «... Hardly own earth, houses, money as now from guards there are they owners and land owners will be got at them; from allies of other citizens will become hostile or lords; hating and causing to themselves hatred, feeding malicious intentions and them being afraid, all of them time will live in большем fear before internal enemies, than before external, and in that case both they and all state will direct to the prompt destruction.

But for the government Platon considered as the greatest harm oligarchy. It defined oligarchy as a political system which is based on a property qualification: at the power there rich, and poor men do not participate in management of public affairs.

The property qualification establishment becomes the law and norm of an oligarchic system; the more a system oligarchic, the above the qualification.

The such state order keeps application of the armed force. Platon with indignation wrote that in oligarchies

The avidity and self-interest are erected to a throne and, except riches and rich men nothing causes delight and honoring, and the ambition is directed only on money-making and on everything, that to it conducts.

In the Middle Ages process of occurrence of the state began to consider within the limits of religious outlook as establishment of institute of the terrestrial power established by the God. This concepts has received the name of the theological theory of the state. Modern Catholicism considers as the official doctrine about the state Fomy Akvinsky's (1225-1274) sights which called people for obedience of the government connected with divine laws. It developed the concept «two градов» which in the spirit of the Christian doctrine has tried to dissolve authority of the state and authority of church: «give кесарево to the Caesar, and Божие to the God».

Known Russian political philosopher Bulgakov (1871 1944), estimating this period in history, fairly underlined: split of a public life on the secular and church has brought serious dissonance and double-entry bookkeeping even in souls of those who quite understood all historical relativity and internal abnormality of this bifurcation. For the conservative "guarding" position of non-interference to a state policy and a public life with moral criteria the medieval church has paid, on the one hand, with humanistic tearing away from it its most active part, with another - own impoverishment, fading of creative spirit.

The new understanding of the government notes an epoch of late Revival. Italian thinker Nikola Machiavelli (1469-1527) considers for the first time the state administration in a technological key - as technologies of the government. The technological approach to the government assumes, that the criterion of efficiency is put above moral standards and rules. For Machiavelli he expert in the field of the government is the expert offering useful technological recipes to competitors of the government. It recognizes that the government can change the owners, pass from hands in hands.

Recipes of government Machiavelli addresses to "a new sovereign», aspiring to keep the power which is challenged constantly by new competitors: «it is difficult to keep the power to a new sovereign. And even to the hereditary sovereign who has attached new possession - so the state becomes as though mixed, it is difficult to keep over it the power first of all owing to the same natural reason what causes revolutions in all new states.

Namely: people, believing, that the new governor will appear better, willingly rise against old, but soon on experience are convinced, that were deceived, for the new governor always appears worse old ».

Tool science of the government at Machiavelli philosophers, and the political professionals above all putting political efficiency as those should seize not. From its point of view, «a new sovereign» should not follow morals precepts if it is necessary - to recede from good and to use this ability depending on the circumstances. For realization of the domination «a new sovereign» can use any means: «whenever possible not to leave from good, but at need not to avoid and harms». Murders because of a corner, intrigues, plots, and other artful means he recommended to Use poisonings widely in business of a gain and government deduction. For this reason Machiavelli name became in the government an insidiousness and immoralist synonym. When today speak about макиавеллизме, mean low moral qualities of people.

Machiavelli divided sovereigns into lions and foxes. Lions are brave and fearless, but they cannot notice danger in time. Therefore foxes more succeed in the government: fair deceivers and hypocrites. They are in the opinion of people compassionate, true to a word, mercy, sincere, pious, but internally keep ability to show opposite qualities if it is necessary.

Макиавелли wrote: «So, from all animals let a sovereign will assimilate to two: to a lion and a fox. The lion is afraid of traps, and a fox - wolves, hence, it is necessary to be similar to a fox to be able to bypass traps, and to a lion to frighten off wolves. The one who is always similar to a lion, cannot notice a trap. From what follows, that the reasonable governor cannot and should not remain to the true promise if it harms to its interests and if the reasons which have induced it to give the promise have disappeared.

Such council would be unworthy if people fairly held a word, but people, being дурны, words do not hold, therefore and you should arrive with them as. And a plausible excuse to break the promise always will be. Examples to that set: how many peace treaties, how many agreements have not come into force or has ruined that sovereigns broke the word, and always in a prize there was the one who had the fox nature. However it is necessary still to be able to cover this nature, it is necessary to be the fair deceiver and a hypocrite, people so are ingenuous and so are absorbed by the nearest needs, that deceiving always will find the one who will allow itself to make a fool.

It is necessary to be in the opinion of people compassionate, true to a word, mercy, sincere, pious - and to be that really, but internally it is necessary to keep readiness to show and opposite qualities if it appears it is necessary ».

In the end of ХIХ century German philosopher Fredric Nitsshe (1844-1900), in many respects following traditions макиавеллизма, has created the concept of the super person - «the great person of crowd», capable to carry out the government, using the most low human passions and defects. It is no wonder that during the Second World War fascist leaders aspired to lean against F.Nitsshe's philosophy for the justification of a brutal state policy of the Third Reich.

Ницше has been convinced that the government should lean against violence and use technologies of propagation and manipulation with public consciousness. In each person, and enormous egoism which with the greatest ease breaks right borders to what in trifles the ordinary life testifies first of all nests in large scale - each page of history and the government. In its opinion, at the heart of the conventional necessity of so carefully preserved European balance the consciousness, confession of that fact lays already, that the person is the predatory animal for certain rushing on weakest which will meet to it on a way. But the stock of hatred existing to some extent in everyone person still joins boundless egoism of human nature, anger, envy, bile and a rage, collecting, as poison in an aperture of a snake tooth, and expecting only a case to be pulled out on open space then to rage and rage, like the broken loose demon.

Ницше has given to political technologists «the easy recipe» manufactures at a government wheel «the great person of crowd». He advised, that under any conditions it is necessary to deliver to crowd that to it is rather pleasant, or at first «to hammer to it into the head», that this or that would be pleasant, and then to give it. But at all at once, on the contrary, it is necessary to win it with the greatest pressure or to pretend, that you win. At crowd the impression should be made, that before it mighty and even invincible will power, or, at least, should seem, that such force exists. Everyone because at anybody she is not present admires with strong will, and everyone says to itself (himself), that if it possessed it, for it and for its egoism there would be no borders. And if it is found out, that such strong will carries out something rather pleasant to crowd instead of listening to desires of the avidity with it even more admire and with it congratulate itself. In the rest such person should to have all qualities of crowd: then she will be ashamed, nevertheless, before it, and it especially will be popular.

So, according to Ницше, the state figure - "super person" can be the tyrant, the envious person, the exploiter, the intriguer, the flatterer, пролазой, спесивцем depending on the circumstances.

Benito Mussolini - the founder and the head of the Italian Fascist party - in the work «the fascism Doctrine» in many respects concretized philosophical positions Ницше in practice of the state building. Mussolini wrote: «the Fascist State is incarnate will to the power and management. The Roman tradition here - a force ideal in operation. According to the fascism doctrine, the government represents not so much that is expressed in territorial and military terms, how many that is expressed in morality and spirituality terms. About it is necessary to think as of empire, that is as about the nation which expressly or by implication corrects other nations, not having desire to take hold uniform square yard of territory.

For fascism empire lifting, that is nation expansion, is intrinsic display of viability and contrast to decline signs. People who tower or rise again after the decline period, - always imperialists; any deviation is a decline and death sign.

But simultaneously in a government science other concept of the government based on principles of humanism and democracy develops. The French and English philosophers of an epoch of Education have put in pawn bases of constitutionalism and division of the authorities in the government, having created system «controls and counterbalances».

Known philosopher Charles Montesquieu (1689-1755) has proclaimed that free development can be provided only in the event that the power in the state will be divided into three isolated branches, each of which begins to constrain and counterbalance others. Montesquieu in the book «About spirit of laws» has written the words which have entered into gold fund of a modern political science as the theory of division of the authorities: « The political freedom can be found out only there where each person allocated with the power, is inclined to abuse it and to keep in the hands the power to the utmost... To warn similar abusing the power, it is necessary, as it follows from the nature of things that one power constrained another. When the legislative and executive authorities unite in the same body... There cannot be freedom. On the other hand, there cannot be freedom if the judicial power is not separated from legislative and executive. Also there comes the end to everything if the same person or body, of noble family or national, on the character, begins to carry out all three kinds of the power ».

In New time the contractual theory of an origin of the state which developed Russo (1712-1778), Т. Gobbs (1588-1679) has received a wide circulation. According to this theory, the people staying originally in natural condition have decided to create the state (to conclude the contract) that it is reliable to provide for all fundamental laws and freedom. Gobbs believed that the public contract consisted between governors and citizens as the submission contract, and Russo, on the contrary, asserted, that the contract took place between citizens as the association contract. The agreement of people - a legitimate authority basis: each of the agreeing submits to the general will and at the same time acts as one of participants of this will.

English philosopher John Lock (1632-1704) develops the concept of the liberal government where the civil society costs ahead of the state. From this point of view the unique way by means of which someone refuses natural freedom and burdens itself with bonds of a civil society, this agreement with other people about association in community that it is convenient, safely and peacefully in common to live, easy using the property and being in большей safety than someone who are not a member of a society.

The main liberal principle of the government: not the person for a society, and a society for the person. The government should be supervised by a civil society, thus absolute value the free person admits, and efficiency of the government is estimated according to that, how much consistently and effectively it expresses interests of the person.

Undoubtedly, such project of the government can be estimated as liberal anthropocentrism - the sermon of ideology of free individualism. In Russia the liberal theory of the government was supported by B.N.Tchitcherin (18). He believed that the higher form of development of the state is the constitutional monarchy. If to differentiate powers between the monarch, aristocracy and democracy the fair state system can be generated. Tchitcherin suggested to lower a property qualification and to admit wide social classes to selective process that should lead to development of democratic elements of management.

Tchitcherin has been convinced that the constitutional monarchy can promote local government development, and the last should be constructed on primordial public traditions. He perceived a community as the corporate union which preceded state Occurrence. The competence of a community of the modern state should be divided into affairs local (self-management) and affairs state. State and community relations are made out as legal relations: the balance of the power between the state and a civil society is established. Thus, Tchitcherin was the supporter of the legal (mixed) model of local government.

It is interesting, that within the limits of liberal tradition to Russia two more versions of local government - public and state developed. V.N.Leshkov (1810-1881) and A.I.Vasilchikov (1818-1881) were supporters of the public theory of self-management according to which all local affairs should be separated from the government. They have been convinced that in Russia it is impossible to copy the European experience of self-management as historical traditions of Russian community strongly differ from the European experience of self-management.

In Russia establishments should make special system, thus in self-government institutions the public unions to which rural regions were equated, city councils and municipal parliaments begin to operate. Васильчиков suggested to create also administrative districts - district and provincial establishments in which representatives of a local society begin to operate.

Modern researchers consider, that Васильчиков has offered the economic theory of self-management (as a special variant of the public theory) as it not only separated local government from the government, but also considered a self-coping community as the independent economic subject of the right who are carrying out municipal activity which purpose is the satisfaction of basic needs of local population.

Supporters of the state theory of self-management in Russia were the hell. Gradovsky (1841-1889) and V.P.Bezobrazov (1828-1899) according to whom special local affairs and questions do not exist: if the state transfers a part of the powers to local population the population should operate as public authority. They believed, that the local government inefficiency speaks just that municipal bodies do not possess the state status and have no real power.

The local government from this point of view represents the decentralized government where independence of local bodies is provided by system of legal guarantees, which, creating decentralization, at the same time provide communication of bodies of the local government with the given district and its population.

In a counterbalance to the liberalism seeing priorities of the government in development of a civil society, the Marxist theory considered the state as the political organization economically a ruling class for suppression of resistance of its class opponents. According to K. Marx (1818-1883) and F. Engels (1820-1895), the state has arisen on a certain level of development of productive forces when the public division of labor has led to occurrence of a private property, property inequality of people and to society split on antagonistic classes.

The Marxist concept of the state consists that economic basis of a society - set of public relations - admits primary and defining, and the political and ideological superstructure urged to follow it.

The basis of development of socioeconomic structures is made by Asian each other Asian, slaveholding, feudal and bourgeois ways of manufacture to which there correspond certain types of a state system. The higher socially economic formation proclaimed communism at which achievement the state dies off, being replaced by public self-management.

The Lenin version of the Marxist state as republics of Councils has received the fullest embodiment in the former USSR. Councils represented elective state bodies, but the defining and directing role of the CPSU was thus proclaimed. In the Soviet state acceptance of all state decisions occurred at level of the higher political management, there was a state ownership on the basic means of production, the state participated directly in management of activity of leading enterprises, the institute of state planning (State Planning Committee) defining the price both tariff policy and prospects of development of all branches of economy developed.

The Soviet system assumed concentration of all three branches of the power in hands parties (CPSU) which possessed the right of distribution of key posts in the legislative, executive and judicial device. Disintegration of the USSR in 1991 has served as the beginning of transition from the Soviet system of the government to formation of the modern democratic state.

Substantive provisions of the classical theory of a lawful state have been formulated in XIX century by German philosopher I. Kant (1724-1804). They have kept the force and value up to now. According to an edging, the right вое the state, unlike despotic or police, limits itself to a certain complex of constant norms and rules.

Here attributes of a lawful state on I.Kant:

- Freedom based on the law of everyone not to obey other law, besides, on which it has given the consent;

- Civil equality - to recognize as standing above itself only that as a part of the people on whom it has moral ability to impose the same legal duties what this can impose on it;

- Attribute of civil independence - in legal affairs the civil person should not be presented anybody to another.

In a lawful state only the duly elected government has the right to apply force as compulsion. The governmental monopoly for force means a uniform, obligatory order for all, destruction of an inequality and a variety of the rights which would depend on social, hereditary or other status. Under the fair remark of the German jurist of R. Eringa, the right never can replace or supersede the basic elements of the state - forces. «Weakness of the power is a deadly sin of the state».

However force of the state is lawful only in the event that it is applied in strict conformity with the right. The political power should realize the right. What does it mean actually?

The state which has published the law is obliged to respect this law until it exists and continues to operate, though it is lawful to reconsider it and even to cancel. It also is a legality mode. Thus to the right the basic role in freedom delimitation is taken away. I. Ilyin defined the law and order as «live system of mutually recognized rights and duties». Defending the rights, the person wishes their recognition and observance from other people. At the same time it makes also to itself (himself) a duty to recognize and observe the rights of others.

The lawful state is cemented not by threat of application of sanctions, namely the consent of the majority of citizens voluntary to execute instructions of laws. The lawful state assumes certain conditions for the statement: the people as a whole and each citizen separately should ripen for perception of idea of leadership of the law in all areas of a human life. It is important, that everyone has realized not only limits of the interests and the rights, but also limits of the responsibility and a duty to self-restriction that is not as a result of long historical experience.

The Russian philosopher and historian P. I. Novgorodtsev has noticed: if democracy opens wide open space to free game of the forces shown in a society it is necessary that these forces subordinated themselves to some higher beginning obliging them. Freedom denying the beginning of the general communication and solidarity of all members of a society, concept of the power and authority, leads to self-destruction and destruction of bases of the state life.

Freedom is the right to do that laws allow. In lawful state laws have equal force for all members of a society without an exception? Even the greatest merits before the state are not the basis for inviolability of the power of the individual. The law serves in a lawful state as invisible border between collective and the individual. The edging has given a classical substantiation to this position: each citizen should possess the same possibility of compulsion concerning dominating to exact and unconditional execution of the law, as dominating in its relation to the citizen. The legislator is under laws, as well as the separate citizen. Laws are supplemented with recognition for the separate person of the integral and inviolable rights.

The personal rights and freedom are the possibilities of the person protecting from illegal and undesirable intervention in its private life and private world, called to provide existence originality and autonomy of the person.

All rights belonging to the person equally are personal. Nevertheless in the narrow sense of the word the personal rights are understood only as a part of the rights directly protecting private life and freedom of each person. The rights to a life, inviolability of person, respect, an honor and dignity protection, a freedom of worship, inviolability of dwelling concern them, a freedom of movement and a residence choice and so on.

For example, the maintenance of the right to a personal immunity reveals in definition of exclusive conditions at which restriction and imprisonment are possible, in an establishment of the strict interdiction of violence, tortures, the reference severe and humiliating human advantage, in voluntariness of medical, scientific and other experiences in the relation of health of the person, in realization of a presumption of innocence.

The innocence presumption means that accused of a crime it is considered innocent while its guilt will not be proved in the order provided by the law and is established by the sentence which has entered validity of court. Accused is not obliged to prove the innocence, ineradicable doubts in guilt are interpreted in favor of accused, and the proofs received with infringement of the law, admit not having a validity.

The Social and economic rights and freedom are possibilities of the person in sphere of manufacture and distribution of the material benefits, called to provide satisfaction of the spiritual needs economic and closely connected with them and interests of the person. The rights to work, rest, social security, dwelling, the right of succession concern number of the social and economic rights and freedom and so on. For example, the right to rest consists that all without an exception working on hiring in the state, public or private organizations guarantees the duration of working hours limited to the law, the weekly days off, and also paid annual holiday.

The cultural rights and freedom are possibilities of the person to use the spiritual, cultural blessings and achievements, to take part in their creation according to the propensities and abilities. Number of such rights concern: the right to using culture achievements; the right to formation; freedom of scientific, technical and art creativity.

Protection of the rights and freedom of the person and the citizen is a state duty. But, in turn, and the citizen bears responsibility before the state: it is obliged to observe laws, to pay taxes, to keep the nature and environment. Fatherland protection also is a debt and a duty of the citizen.

The personal immunity is provided with lawful frameworks of powers of authorities of a lawful state. The personal immunity principle is supplemented with inviolability of dwelling and correspondence.

The political rights and personal freedoms are the possibilities of the person providing its political self-determination and freedom, participation in government and a society. The concern the right to association; freedom of meetings, processions, demonstrations; the right to select and be the selected works in public authorities and local government; the right to equal access to any state posts; the right to participate in national discussions and voting (referenda) and so on. For example, the right to association (freedom of associations) means possibility of free creation political and public organizations, voluntariness of the introduction and an exit from them.

Some ideas and lawful state formulas have received for the first time the legislative fastening in the Constitution of the USA 1787 and in the Declaration of human rights and the citizen, with the proclaimed French revolution on August, 26th, 1789 we Will allocate some positions fixed in the Declaration: freedom consists in possibility to do that does not harm another; the law is expression of the general will; all citizens have the right to participate personally or through the representatives in its creation; everything, that is not forbidden by the law it is permitted, and nobody can be forced to the action which is not ordered by the law.

In a scientific turn the term "lawful state" in first third XIX century German lawyers R.Mol and K.Velker have entered Into Russia ideas of a lawful state developed Kistjakovsky, Kotlyarevsky, V.M.Gessen.

In ХХ century with development of the international integration the classical concept of a lawful state has been added by idea about necessity of submission of national legal systems to the world community right. Many European states have made the decision, that in case of a divergence of the law of the country with the international contract courts are obliged to be guided by the last. Political scientists carry to number of distinctive signs of a lawful state now not only leadership of the law, but also its conformity to international law.

So, it is possible to name following characteristics of a lawful state: a priority of human rights; free, independent court; a principle of leadership of the constitution (organic law) under the relation to other laws; mutual responsibility of the citizen and the state; a principle of division of the authorities; a priority of norms of international law.

Ideas of a lawful state find expression in constitutions of the modern states. The organic law of Germany says: «the Legislation is connected by the constitutional system, an executive power and justice - the law and the right». The modern Constitution of the Russian Federation (item 1) testifies: «the Russian Federation - Russia is a democratic federal lawful state with the republican form of board», unfortunately, real legal experts of the Russian statehood still are far from a lawful state ideal. Therefore definition of the Russian Federation as lawful state can be considered as a political end to which all of us aspire.

THE LITERATURE LIST

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