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POLITICAL AND LEGAL MODELS OF INSTITUTE TRANSFORMATION IN THE 21ST CENTURY

MODELOS POLÍTICOS Y JURÍDICOS DE TRANSFORMACIÓN DEL INSTITUTO EN EL SIGLO XXI

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RESUMEN
En esta investigación, se analizan la teoría y las doctrinas clave que presentan proyectos predictivos de transformación política y legal del instituto estatal en el siglo XXI. fue una investigación analítica y nuestro hallazgo muestra que la transferencia de las obligaciones funcionales fundamentales del instituto estatal por parte de otros a sujetos políticos resultará en una disfunción de los institutos públicos y de poder y en la inestabilidad del proceso político. En el presente trabajo de los institutos del gobierno y la estrategia de su desarrollo en el mundo globalizado, así como los criterios y características, es necesario definir las "cualidades soberanas" del gobierno, especificando su realidad, factualidad, etc.
Palabras clave: Estado, cosmopolitas, política, institutos públicos y de poder, transformación.

ABSTRACT
In this research, the key theory and doctrines submitting predictive projects of political and legal transformation of state institute in the 21st century are analyzed. it was an analytical research and our finding shows that transfer of the fundamental functional obligations of state institute by others to political subjects will result in dysfunctionality of public and power institutes and instability of political process. In the present work of institutes of the government and the strategy of their development in the globalized world, as well as criteria and characteristics, type-defining "sovereign qualities" of the government, specifying their reality, factuality, etc. is necessary.
Keywords: State, cosmopolitan, politics, public institutes and power, transformation.

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INTRODUCTION

The beginning of the XXI century was marked by statement and justification of a hypothesis of "scientific and practical insolvency" of the sovereign law-political organization, about a decline of "a government era" as the political institute providing and monopolizing welfare integrity, political unity, a materialization and protection of the rights, freedoms and social interests (universal and civil) (Baranov, Mamychev, and Ovchinnikov, 2016). At the same time in international political arena institute the state even more often is considered as one of global actors (subjects) participating in political and legal process on an equal basis with non-governmental civil institutes, transnational subjects, military-political blocks.

All this evolution, according to modern ideologists of "death of the national and state methodology" (Beck, 2007, 72) leads to "withdrawal" at the state of monopoly for formation and ensuring socio-political unity of society. The researchers moving in this direction declare the coming "new socio-political revolution" which will sweep away traditional categories of political and legal thinking (the state, the legal order, political legal status of the person defined and guaranteed by the state and so forth) and forms of public unity (the people, the nation), and then will essentially create other forms of the public and political organization. For example, Paolo Virno (2011) proves that the concept "people" is outdated as it "directly depends on existence of the State, moreover, the people are its reflection, its echo and if there is a State, it means there are also people" (Antúnez, 2016, p. 8).

Finally, this paper titled “Political and Legal Models of Institute Transformation in the 21st Century” analyzes theory and doctrines submitting predictive projects of political and legal transformation of state institute in the 21st century.

KEY APPROACHES AND MATERIALS

In the context of various theories, and political and legal doctrines, it is possible to mark out four main traditions of the conceptual and political analysis of transformation of institutes of the government.

First, it is a group of researchers who analyze this political phenomenon in the structurally functional plan, focusing attention on changes in structure, the mechanism and functions of state institute.

Secondly, they are the conceptual versions paying attention on institutional and standard interpretation of the state, discussing first of all specifics of standard and legal evolution of this institute, belonging to a feather of such foreign and domestic authors as H. Arendt(1932), M. I. Baiting(1943), I. N. Gomerov (1927), V. Y. Lyubashits (1952), A. F. Maly, D. Nort(1964), J. Wallice, V. E. Chirkin(1923), (Antúnez, 2016) etc .

Thirdly, it is the political doctrines focusing on understanding the government as specific system of the public and imperious relations which change and is transformed in time and space. Such approach to interpretation of this political phenomenon is presented in

N. N. Alekseev (1932), P. Blau(1943), N. Luman (1943), G. V. Maltsev (1941), L. S. Mamut (1965), A. Y. Mordovtsev (1951), A. I. Ovchinnikov (1935), V. A. Podoroga (1961), O. Harkhordin (1943), E. Yunger's works (1954), (Antúnez, 2016) etc.

At last, fourthly, the government is considered in quality or a certain type of political rationality by J. Agamben 1943, M. Weber 1964, P. Burdyyo 1982, K. Crouch1946, M. Foucault 1965, (Antúnez, 2016) etc, or as a social mental set by B. de Jouvenel1954, I. A. Ilyin 1963, M. N. Korkunov 1951, L. I. Petrazhitsky 1935, I. L. Solonevich 1952, (Antúnez, 2016) etc. or as a mass political image (real or virtual), representation, a simulacrum, archetypic installation, by Ge. Baudrillard 1943, D. V. Ivanov 1984, I. A. Isaev 1936, Yu. Evola 1952, M. Eliade 1936, Zh. Ellyul 1947, (Antúnez, 2016) etc.the actors organizing a socio-political thinking-action and processes of an institutionalization of public and imperious space.

In the theoretic-methodological and practical plan this work was guided also by provisions of the new institutionalism developed in works of such authors as: P. J. Dimadzhio(1954), J. March (1954), D. Norton(1952), J. Olson(1962), R. Taylor(1952), J. Wallice (1952), O. Favoro (1936), Hull(1924), F. Aimar-Duverne (1964), etc. in which political institutes and in particular state institute are treated rather widely, on the one hand, as formal rules, standard models, procedures and norms; and with another - as symbolical systems, cognitive scenarios, sociocultural and spiritual and moral samples, organizing and operating a thinking-action of people. Such approach is most lawful for the adequate description of the current state and the directions of development of state institute in the 21st century as institutional and standard and sociocultural phenomenon.

Besides, if to systematize *the predictive models* of development of the state existing today as institute of political system and attempt of scientific and practical modeling of its evolution, then it is possible to allocate three main directions (Lyubashits, Mamychev, Mordovtsev, Zueva and Timofeeva, 2017, Antúnez, 2016):

1) *Pragmatical*, connected with an intensification of interrelation and interdependence of national systems of the government, at realization of the internal and external functions. This direction assumes development of the international political and legal and social and economic interaction aimed at providing stability of national state and legal space, basic institutes, values, etc.;

2) *Unification*, is based on rapprochement and unification of political and legal forms and means of communication, distribution and an institutionalization of legal and other standards and requirements in development of local socio-political spaces;

3) *Cosmopolitan*, focused on high-quality transformation of public forms of the organization of the political power (and in particular the government) in the context of which the state institute ceases "to create the general order of relationship" (Beck, 2007, p.62) and stimulates essentially new cosmopolitan principles of the organization of human activity and new (revolutionary) forms of social integration and identity which have to be conceptually and are politically mastered out of old categories national and

international.

MAIN CONTENTS

Consider these **three directions** in more detail and we will begin with the most discussed subject - it is a project of evolution of the sovereign law-political organization and system of the government.

1. Universalistic project. Now in the analysis of the forms providing socio-political unity, especially in the Western European geopolitical space, to the research projects setting "tone", there is an obvious ignoring of capacity of the state organization. They formulated innovative (neoliberal) forms of political communication where very small place is allocated to the government (i.e. it is perceived as one of actors, participants of public and imperious interaction); or revolutionary (neo Marxism and neo anarchism) the forms of political unity depriving the government of any social value in the future.

In the first case it is about the so-called *service concept of the state* and global *neoliberal* constitutional and legal integration. The government in this direction is not the only actor in international and political communication, acts or "as equals" with local or global institutes of civil society and other non-governmental organizations; or in general carries out the serving (service) role in realization of social interests, inquiries, requirements, etc (Cohen, 2006).

In this case decline of state and legal forms of public interaction, mechanisms of ensuring social integrity and identification is proved. And on this background outdated political and legal forms and mechanisms open spaces for revenge of global civil society.

At the same time the totality of the law-political organization of the nation presented and maintained by the government is replaced with the global-local social organizations functioning in the free, mobile mode (i.e. constantly change and become complicated, break up and self-organization, overstepping the bounds of sovereign territories) where a framework of their socio-political activity does not contact the state rationing any more, and submits to the general (standardized) "constitutional and legal identity" (Habermas, 2008).

In other words, the universal concept of human rights and the general social and legal limits of tolerance deprived of outdated national and state and religious and ethnic parameters form new "tank" of political communication and "exempt political interaction from cultural and ethnic identity" (Altermatt, 2000, p.49).

In too time it is emphasized that these political trends do not destroy completely the state, and qualitatively change its role, value and functions in the third millennium. In general "the strategic revenge of civil society" and release from sovereign law-political rationing of public processes "does not change the liberal purposes, but destroys civilization fetters … proceeding from the principles of the benefit of the world community" (Habermas, 2008, p.72), and "returns the person to the principles of free

development" (Chomsky, 2012, p.41).

There is a reasonable question: if innovative forms of political integration are based on freedom and mobility of the institutes of civil society constructed by the network principle and moving to registration to the uniform world community, then what role and social purpose of the state and its bodies in the XXI century? This answer contains in the made-out concept of the service state where the role of the reader last comes down to the public subject rendering socially important services, guaranteeing and coordinating their realization, using various public resources (symbolical, physical) and the administrative technologies based on developed ITC (interactive technologies of communication).

Today service approach to transformation of public administration, is broader to modern reforming of public authorities and administrative process is the dominating innovative strategy in post-capitalist political-right thinking and the main program of transformations in information society.

During too time, the service concept of the state and optimization of administrative process in essence is, in our opinion, *a transitional phenomenon* ("opening doors" in the third millennium) as neoliberal tendencies in policy of many foreign states conduct to the fact that the massif, the services rendered by the state is significantly narrowed.

Now, as a rule, "separate types of public services it is either privatized, or are assigned to the company's contractors"; and even when public services remain behind the government, they "are provided as if the private company" was engaged in it (Crouch, 2010, p58).

At the same time total politicization and an economization of the public sphere in the updated concept of the minimalist state conducts like Crouch (2010) fairly notes that "like the illusive company, the government gradually tries to get rid of any direct responsibility for providing public services capable to spoil its reputation" (Crouch, 2010, p.789) and tries to virtualize as much as possible the public activity (for example, to intensify imperious interaction with society and the personality by means of mobile electronic and network resources).

If structurally to submit this made-out political project, then it is possible to allocate conditionally three main levels of its development:

1) Meta level - the neoliberal paradigm bases proving formation of the new dominating subjects of public and imperious interaction - the international corporate structures and global civil society;

2) Meso level - the ideological and conceptual bases of statehood connected with the service organization of the state with prevalence of interactive systems and virtual technologies in imperious and administrative activity (e-democracy, e-services);

3) Micro level - practice of the organization and functioning of public institutes of the power and interactive forms of political communication (e-public network, e-public administration) (Mamychev, 2012, p29).

In the second case it is about cardinal change of both the direction of development of the public organization, and forms of social integration which are not connected with functioning of the government and deprive of it any value in the future. Respectively, if refuse to the state "a historical mission", then forms of social integration and political communication are proved in essentially new concepts and categories which are not connected with "the national and state methodology" (Beck, 2007).

So, in *neomarxists*, *"set"* which "is not opposed to Unity acts as a new form of the social organization, but anew defines it". However, such unity "is not more State, and becomes rather the language, intelligence, the general abilities inherent in the human race" (Antúnez, 2016, p.8). Alongside each other, the set is considered and as the new form of political communication which is not canceling classes, but on other them structuring; and as "an individuation universal, patrimonial, divided". This new individual practice creates essentially other forms of collective life and alternative social orders which are not connected already with the state.

In the present analysis identity is treated as *originality* of political actors which cannot be reduced to old forms of unity (the national and state identity, to the people, etc.), and collective - as specific public activity of the personality in relation to general welfare.

From the point of view of Hardt and Negri (2006) both individualization and mobile self-organization determine in global whole the general is at the same time both natural and artificial … There is no such personality who would not be designed in a set. There is no communication which would not have general character … Activity of such persons should be considered a matrix of freedom and plurality for each of them. Here democracy becomes the direct purpose, and it is impossible as earlier to estimate in liberal terms - as an equality limit, or in socialist - as freedom measure.

From now on it has to become *radical expression* of both *freedom*, and *equality* - without any restrictions".

The ***neoanarchism*** also submits the political project of radical reconsideration of essence of the state, its value and roles in future social system. Dominants of modern anarchism is the anti-state orientation (which is generally based on evolutionary decrease in a role and value of the state as socio-political institute), as well as anti-nationalism and insecurity in development of the social organization. Here too self-organization of local communities and freedom in the global movements on formation of universal society are proved.

In turn the state and power organization has to evolve in the public institutes serving local communities over time. In the vast majority the **neoanarchical** thought represents "the theory of dispersion of the government", assuming eradication of the imperious and

hierarchical centers.

So, the contractual free unions quickly enough are built by the network principle, change and collapse, forming new configurations of communities, i.e. in essence is *unstable* and *unpredictable*. Their development "goes not to depth or up", they are not built in imperious and hierarchical integrity and orderliness, and constantly extend, change and mutate in rizomorphic (non-linear) form, "the tuberous organization" as at Delyoz and Gvattari across.

"**Rizomorphic"** is the *new principle* of the **neo anarchy** political organization approving basic extra degree of structure, non-linearity and the horizontal principle of development (expansion): "the rhizome develops, varies, extends, taking, grabs, taking root". The rizomorphic principle of development assumes the constant "converting and subjective measurement" resisting to any semantic centers and "the aligning unity of a code" (for example, the law-political order supported by the sovereign state).

This circumstance has essential value for understanding of the modern neo anarchical project of "dispersion of the public power" as communities are mobile also rizomorph, they do not allow (do not create conditions!) for formation of the imperious and hierarchical centers.

Free communities change constantly, transformed and respectively the public institutes serving these dynamic processes, interests, installations and so forth not linearly develop. Not casually today there is an intensive formation of risk theories and nonlinear management of public processes.

Nevertheless, instability becomes a new dominant of political process, and risk generating - the new direction in modernization of political technologies of management. So, for example, instability is proved that all "need to learn to live without steady reference points, long-living factors of an order, the conventional authorities". Therefore, the distinct theory forming forms, procedures and methods of a constant reconstruction of "nonlinear communities", managements with the changing priorities and so forth, capable "to take" constantly changing and risk generating public environment under control is necessary (Kravchenko, 2009).

2. In turn **the cosmopolitan project** is also focused on high-quality transformation of political system and state institute. At the same time cosmopolitan forms similarly prove flexibility and mobility of power structures, "network methodology of the organization" of public and imperious interaction which have to succeed "national and sovereign methodology" of knowledge and designing of the social organization: "**The Metagame** of the authorities (economic, civil, state on the world scene - *a bus*) means that the state has to be thought, be under construction and be explored as dependent on different circumstances and politically changeable" (Beck, 2007, p.64).

At the same time constantly changing international order is not based any more on the traditional bases of law-political integrity as in its ideas of the natural, closed in

themselves integrity which cannot be chosen. The cosmopolitan realism rejects also representation as if rootedness in ethnic or national integrity is natural and therefore a healthy condition of the person in the world.

Therefore, a problem of political and legal sciences needs to analyze in what sense of the state (and a concept of the state) lose the kernel and as they are anew defined and transformed in the values and functions, in a global world order. All these processes turn imperious space, fragmentary by national state principle, into the space of world domestic policy which is not recognizing borders (Beck, 2007, p.67).

However, it should be noted that the global "adaptive" structures of the power which are constantly changing, restructured and adapting to sharply changing conditions in the arising conflicts risks are worked very poorly out in modern both political and the jurisprudence and does not have also practical examples of their effective and under control functioning. More modeling of those new structures of the political organization are at a stage of theoretic-conceptual registration and stage-by-stage introduction.

In general it is possible to state a hypothesis of what the "modern enthusiasm" for risks, crises and the conflicts, as well as technologies of management of unstable situations treated as natural state of development of social systems (as opposed to, for example, incidental, emergency situations, the modes as at K. Schmitt) forms steady installation on "decline of sovereign qualities of the state", updating of alternative projects of the organization of political systems. And finally to formation of such conditions under which sovereign law-political (state) providing an order and stable reproduction of civilization communities will be treated quite naturally as a nonsense (i.e. as what does not correspond to reality as the important, but passable stage of the social and legal organization, memory and the important place among other "museum pieces").

3. in **the pragmatical project**, all political phenomena and processes are proved in the context of socio-cultural evolution are specific and work in the context of a certain space and time. In this regard it is claimed that there are no absolutely similar, identical regularities of political system of society and the directions of socio-cultural transformation of the government (Lyubashits, Mordovtsev and Mamychev, 2013). In this plan it is only possible to speak about similarity in development of these or those political and legal systems and the modes. Therefore, from the point of view of globalization will qualitatively enrich and complicate a government role, its institutional and functional structure, and the state institute will hardly lose as the dominant position as the central subject of political system, and the leading role in the international political process (Lyubashits, 2013).

CONCLUSIONS

Summing up the result, we will note that "withdrawal" at state institute of the fundamental functional obligations will result in dysfunctional (to distortion, deformation) its institutes and in instability of political process.

From the point of view of practical installation development of the legal designs and

political forms which are adequately describing modern functioning of institutes of the government and the strategy of their development in the globalized world, as well as criteria and characteristics, type-defining "sovereign qualities" of the government, specifying their reality (or nominal), factuality (virtually), etc. is necessary.

Not casually in modern researches the concept "the government force" which expresses potential and real ability of the government independently and to independently define the purposes and problems of development of national political and legal space, to participate "dialogical" in international legal policy and to act as equals as one of "architects" of the international security system, the leading subject of global political economic system even more often begins to be used.

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