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The role of constitutional policy in the formation of a democratic society and the rule of law in the conditions of the Russian legal system

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Abstract

The study purpose is to estimate the direct relationship of constitutional provisions and other sources of constitutional law with the rule of law concept, law and democracy effectiveness, to compare and determine the priorities of Russia's constitutional values. Through a comparative legal method, issues related to the constitutional provisions interpretation and legal system characteristics at specific stages of its development in Russia and foreign countries are examined. The results of this study reveal the essence of the genesis and evolution of sources of Russian constitutional law and are of practical importance for subjects of the formation of state policy in the field of constitutional law.

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Key words

Legal systems; constitutional provisions; constitutional review; social development; constitutional values

Resumen

El objetivo del estudio es estimar la relación directa de las disposiciones constitucionales y otras fuentes del derecho constitucional con el concepto de Estado de Derecho, la eficacia de la ley y la democracia, para comparar y determinar las prioridades de los valores constitucionales de Rusia. A través del método jurídico comparativo, se examinan cuestiones relacionadas con la interpretación de las disposiciones constitucionales y las características del sistema jurídico en etapas específicas de su desarrollo en Rusia y en otros países. Los resultados del estudio revelan la esencia de la génesis y la evolución de las fuentes del derecho constitucional ruso y son de importancia práctica para los sujetos de la formación de la política estatal en el ámbito del derecho constitucional.

Palabras clave

Sistemas jurídicos; provisiones constitucionales; revisión de la Constitución; desarrollo social; valores constitucionales

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1. Introduction

The role of higher courts in general, and constitutional review authorities in particular, as fully-fledged participants in the political process has recently increased significantly – higher courts create new political trends affecting a significant part of the legal system, which cannot be ignored by other governmental authorities. The practice of the European Court of Justice is exemplary in this regard in the context of the ongoing political and economic integration of European countries. A number of authors, pointing to the increasing importance of case law within the European legal community, conclude that the European Court of Justice has increased its influence both on the policy of the European Union as a whole and that of its individual Member States (Blauberger and Schmidt 2017). The case law of the European Court of Justice cannot directly determine the European or national policies, but it can serve as an incentive to adopt certain legislative measures, bridge legislative gaps, and launch reforms, including in order to protect the domestic policy of Member States from further "judicial intervention" (Blauberger and Schmidt 2017).

Russian legal scholars are quite conservative as far as fundamental principles and system of legal knowledge, and studying, understanding, and judging its values and value criteria are concerned; with a penchant primarily for legal centralism in terms of legal methodology and various forms of statist positivism and/or neo-positivism in terms of understanding the law. This could not but leave an imprint on the practice of state building, on the lawyers' mindset, and on law enforcement practices. Russian research in the field of constitutional law mainly focuses on legalistic aspects in its practical and enforcement plane (Nersesyants 2004, Varlamova 2008, Zorkin 2018).

As a result, there is a growing perception both in society and among legal scholars that courts, including constitutional review authorities, are indeed fully-fledged participants of political relations, which are capable of protecting an increasingly wide range of human rights and freedoms, promoting political stability, social order, and economic development. At the same time, for the sake of objectivity, one should note that researchers often perceive the increasing judicial influence on social relations as negative, describing this process of expanding the remit of the judiciary as "judicialization of politics" or, even tougher, as "juristocracy" (Brinks and Blass 2017, p. 298).

Therefore, the focus of the above problem is on the interpretation of the constitution, namely, the correlation between the case-specific method of its interpretation and the characteristics of the legal system at specific stages of its development (maturity of democratic institutions and political freedoms, effectiveness of mechanisms used to restore violated rights, including through judicial protection, the independence of the court, etc).

If the above can be defined as "general legal topics", the next set of issues to be analyzed have a narrower focus relating to the traditionally identified constitutional law constructs. In this case, the focus is shifted on constructs such as courts, constitutional review, authorities, political institutions, etc. In a broad sense, this study proceeds from the assumption that there is a relationship between the actual level of exercise of rights and freedoms and the potential for social development, on the one hand, and the constitutional provisions themselves, on the other.

The narrower focus areas of this research cover the following aspects:

1. A correlation between the "design" (architecture) of the constitution and political institutions, rights, and freedoms;
2. The essence of key constructs outlined in the text of the constitution;
3. Models and/or forms of interrelation between the above that generate the best synergy for the development of legal institutions;
4. How to interpret constitutional provisions that become partially or completely irrelevant at the time of their interpretation.

Modern researches related to the interconnection between constitutional regulations, the effectiveness of legislative mechanisms and the rule of law are devoted to such issues as the role of the judiciary in policymaking (Brinks and Blass 2017), the role of written constitutions in modern legal systems (Blick 2016), the political influence of the decisions of the European Court of Justice on EU member states (Blauberger and Schmidt 2017), the role of the principle of subsidiarity in constitutional law (Arban 2015). With regard to the constitutional law of the Russian Federation, modern studies are devoted to such issues as the problems of the direct effect of the constitutional regulations of the 1993 Constitution (Bondar and Dzhagaryan 2016, Avakyan 2018), constitutional justice in Russia (Bondar 2011, Morshchakova 2017), and the development of conceptual apparatus of constitutional law (Liverovskii 2018).

The purpose of this study is to analyze the direct relationship of constitutional provisions and other sources of constitutional law with the concept of the rule of law, the effectiveness of law and democracy, as well as to determine the priorities of constitutional values in Russia. Based on the study of international experience in the field of constitutional law, the study aims to determine the relationship between constitutional provisions and the actual level of exercise of the rights and freedoms of citizens, taking into account the potential for social development.

2. Materials and methods

The study is based on an analysis of the constitutions of foreign states (USA, China, EU countries) as well as the Constitution of the Russian Federation, doctrinal sources of law (Political Question Doctrine, the doctrine of strict scrutiny), acts of the judiciary (in particular, Resolution No. 2-P of the Constitutional Court of the Russian Federation dated 10 February 2017, The Federal Constitutional Court of Germany's (Bundesverfassungsgericht – BVerfG) Lüth decision of 15 January 1958).

Through the comparative legal method used in this study, the achievement of the research objectives was carried out by solving such problems as determining the relationship of the actual level of exercise of rights and freedoms with the potential for social development, on the one hand, and constitutional provisions, on the other, from the position of theoretical and practical approaches in scientific research, generalization of existing practices of its application in the conditions of the Russian legal system and in foreign countries. The empirical analysis within this study will cover constitutions and legal systems of countries ranked in the World Justice Project's Rule of Law Index (World Justice Project 2021). The study covers 120,000 national studies and 3,800 expert reviews from 126 jurisdictions. According to the study, the top 15 countries in the rule of law index include: 1) Denmark; 2) Norway; 3) Finland; 4) Sweden; 5) Netherlands; 6)

Germany; 7) Austria; 8) New Zealand; 9) Canada; 10) Estonia; 11) Australia; 12) United Kingdom; 13) Singapore; 14) Belgium; 15) Japan.

3. Results

As a rule, constitutions contain provisions on the form of the state and human rights. In global practice, they all provide, more or less, for the same set of institutions, mechanisms, and regulations (a "basic set"). Some constitutional provisions have an objective term of validity (since they become outdated due to the fact that they are designed for delivering a specific completed outcome). For instance, if the Thirteenth Amendment is removed from the U.S. Constitution, it will not mean that slavery will be returned under any circumstances and the buying and selling of people will resume. The removal of this Amendment will mean nothing at all: the current legal system of the U.S. would not allow enslaving people even without the Thirteenth Amendment.

Other provisions and regulations are caused by the legislator's concerns: for example, the provisions of Parts 1 and 2 of Article 13 of the Russian Constitution seem to reflect the inadmissibility (extreme reluctance of the legislator) of returning to the concepts of Article 6 of the Soviet Constitution of 1977. The authors of the Constitution assumed the possibility of repeating the negative experience of building a mono-ideological society; in 1993, the legislator also understood the risks of neglecting law in favor of "legality", which probably explains the concepts outlined in Part 4, Article 15 of the Russian Constitution providing for the priority of international treaties of the Russian Federation over the national law. As practice shows, such provisions in transitional legal systems can still prove useful since relapses into the legal past occur quite often (when legal institutions are *de facto* dismantled by changing the current legislation),[1] or the prospect of such relapses is perceived/considered by political actors as quite probable.

Mentioning the 13th Amendment to the US Constitution is to note that despite its apparent inapplicability in the legal reality of Western (American) society, in legal science it is not considered as something atavistic and to this day has a certain semantic content (Wang 2018, Boxill 2019, Hasbrouck 2020). At the same time, at the present time, when it would seem that legal science has made a new evolutionary round, there are examples when the modern constitutional process in many countries is not always accompanied by pragmatic goals in the areas of civil society formation and the rule of law, while creating space for discrepancies and manipulations. Moreover, it may well be about countries committed to democratic principles and parliamentary pluralism. In such cases, it is difficult to imagine the direct dependence of the strengthening of democratic institutions on constitutional regulation. So, in accordance with the amendments made in 2020, the Constitution of the Russian Federation received several vague formulations that are poorly compatible with the modern understanding of the legal norm, in particular, this concerns such declarative formulations as that "the

[1] In this respect, it would be relevant to mention a case examined by the Constitutional Court of the Russian Federation on I.I. Dadin's complaint related to a legislative mechanism that implied the universal criminal liability for the violation of the law on public events in case of a previously committed administrative offense, where the Constitutional Court clearly indicated the inadmissibility of formal interpretations of Article 212.1 of the Russian Criminal Code. For more details, see Resolution No. 2-P of the Constitutional Court of the Russian Federation dated 10 February 2017. Collection of Legislative Acts of the Russian Federation, No. 9, Art. 1422, 27 February 2017.

President of the Russian Federation supports civil peace and harmony in the country ", "The Government of the Russian Federation (...) ensures the implementation in the Russian Federation of a unified socially oriented state policy in the field of culture and science (…)". In addition, some amendments have preamble properties. For example, paragraph 2 of Article 67.1 solemnly proclaims that "The Russian Federation, united by a thousand-year history, preserving the memory of ancestors who passed on to us ideals and faith in God, as well as the continuity in the development of the Russian state, recognizes the historically established state unity" (Mälksoo 2021). However, in general, the above examples are not decisive against the background of those changes that are commonly called the destruction of the last checks on the presidential power (Partlett 2020). The possibility of the President of the Russian Federation to propose to the Federation Council to dismiss a particular judge of the Constitutional or Supreme Court threatens the independence of the entire judicial corps of the highest courts. According to the researchers, judicial independence from the current principle becomes an unsupported declaration – judges of higher courts are actually limited in their ability to make a decision that is disagreeable to the legislative and executive authorities (Vinogradova and Patyulin 2020). In this regard, it is important to note that according to the results of a sociological survey conducted by the Public Opinion Foundation in 2019, the majority of Russians do not consider the Constitution a document that defines the life of the country and believe that the norms prescribed in it have ceased to be a direct-action law directed on the interests of Russian citizens. Consequently, in the opinion of the respondents, the mechanism for guaranteeing rights and freedoms does not function properly (Vinogradova and Patyulin 2020).

The study of the relationship between constitutional provisions, the rule of law, and the effectiveness of the law and democracy also highlights the issue of judicial interpretation of the Constitution, the role of the court in lawmaking, and judicial activism as a way to achieve justice (as the principle of justice, whether explicit or implicit, is present in virtually all constitutions of modern global legal systems) (Arban 2015, Mulé and Walzenbach 2019). Moreover, it would be fair to tell that all scientific disputes and dialogues about judicial activism objectively refer, as a matter of fact, to the ratio between the principles of legality and justice, and subjectively to motives behind decisions made by judges.[2] It is also important to understand the principle of direct operation of the Constitution outlined in a number of Constitutions around the world, including the Russian Constitution. It is also important to know for whom does the Constitution inure: to lawyers or to people? Or would it be more correct to formulate this question as follows: does it inure to the state represented by judges or to society represented by all parties to public relations (i.e. all persons that are weaker than the state)? It would be fair to conclude that the principle of direct operation consists in that under certain circumstances the court can interpret the law on a *contra legem* basis, which, however, is

[2] As noted by Keenan D. Kmiec, judicial activism is criticized in the United States for its denial of the increased role of the judiciary within the framework of the separation of powers, since, according to a number of researchers, law enforcers go beyond their constitutional powers to assume, in fact, the functions of a legislator (Kmiec 2004, p. 1460). The opponents of judicial activism also often point out that judges lend themselves to ideological judicial decision making and simply impose their political preferences on society through their decisions, unaccountable to voters or unbound by the provisions of the Constitution (Cross and Lindquist 2006, p. 1755).

rather poorly implemented in the current Russian law enforcement practice. At the same time, Russian legal theory too often reduces the understanding of the principle of direct operation of the Constitution to what some scholars call "a constitution in the pocket" (Vengerov 2000).

In this context, it is important to consider the admissibility of what is known as "external" restrictions on the powers of constitutional review authorities, which are actually responsible for enforcing compliance of acts adopted by other governmental authorities with the constitution. In order for the constitutional provisions to have a real impact on legal regulation, the constitutional review authority should not be restricted in the exercise of its powers by "external" governmental authorities. The nature of restrictions to be imposed on constitutional review authorities ensues from the constitutional act itself that is verified by constitutional review authorities for compliance with regulatory legal acts of other governmental authorities; therefore, the limits of powers of constitutional review authorities should be determined by such constitutional review authorities.[3]

In this regard, the *nemo judex in propria causa* principle does not apply to constitutional review authorities due to the specific, exceptional nature of their activities – the exercise of powers based exclusively on an act of supreme legal force and their mandate to verify other regulatory legal acts for compliance with such an act, and to interpret the provisions of such an act. A different approach would imply the need for another governmental authority to verify whether constitutional review authorities act in compliance with their mandate, ending up with an endless chain of review bodies.

Over the many years of the existence of constitutional review authorities, different doctrines have been built across countries, including *judicial self-restraint* (Huscroft and Miller 2011), *political questions*,[4] *strict scrutiny*,[5] and *judicial minimalism*[6] used by constitutional review authorities to restrict their own activities, as is clearly demonstrated by the fact that the "abuse" of powers by constitutional review authorities, while not completely ruled out, is largely restrained by constitutional review authorities themselves, including through indirect supervision by other governmental authorities

[3] However, the situation with constitutional review is somewhat different in countries that have no specialized constitutional review authority and where constitutional review is not always evident or explicit. As Bondar and Dzhagaryan rightly point out in this connection, "constitutional review is as if institutionally dissolved in the overall jurisdictional activities" (Bondar and Dzhagaryan 2016).

[4] Political Question Doctrine developed by the U.S. Supreme Court implies that a constitutional review authority should refrain from considering a relevant matter if such matter is reserved, in accordance with the provisions of the Constitution, to the exclusive competence of another governmental authority, which is not a constitutional review authority, and the examination of such matter does not imply the existence of a dispute that may be resolved by a constitutional review authority through judicial proceedings (for example, as part of balancing different constitutional values).. For more details, see Posner 2003.

[5] The doctrine of strict scrutiny, also developed by the U.S. Supreme Court, is applied to cases related to a potential infringement on fundamental rights and freedoms guaranteed by constitutional provisions, and when examining whether decisions made by governmental authorities to restrict the rights and freedoms of significant social groups are justified. For more details, see: Corwin 2008, pp. 492–494, 499–500, 510–513.

[6] The doctrine of judicial minimalism implies that in resolving a specific constitutional dispute a constitutional review authority should refrain from expressing a general position that may be applied by governmental authorities in the exercise of their legislative powers in the future, and limit itself to opining on whether a provision of a regulatory legal act complies with the constitution if the case was initiated to examine the constitutionality of such provision. For more details, see Brand-Ballard 2010, pp. 283–285.

(Malko and Salomatina 2017). At the same time, the history of a number of nations, in particular the United States, is also full of examples of how a constitutional review authority can extend its competence to review any acts adopted by legislative or executive authorities by refusing to recognize any exclusive legislative prerogatives of such authorities. Of particular interest in this context are the activities of the U.S. Supreme Court, which is described by a number of authors as setting a precedent for extreme judicial activism during E. Warren's tenure as the Chief Justice of the U.S. Supreme Court (Ura and Flink 2016, Fabrikant 2017).

The self-restraint by a constitutional review authority may take two forms: such self-restraint may take place when the constitutional review authority refuses to examine (admit) a respective case, or if the case to be examined requires a decision on whether a regulation complies with constitutional provisions within one of the constitutionally admissible models of public relations. In other words, in cases when, in its decision (on the case on recognizing a normative act as complying with the constitution), the constitutional oversight body refrains from making "recommendations" to the legislative or other state body on improving legal regulation, if there are no preconditions for this. If, on examining the matter, the constitutional review authority finds that, within specific social relations, regulation designed by another governmental authority does not contradict the constitutional act, but has room for improvement (including in the previously discussed context of a proportionality test where constitutional review verifies whether a regulation restricting human rights and freedoms is constitutional), the constitutional review authority, wishing to restrain itself, does not explain in its decision which kind of regulation is more appropriate (effective, efficient, etc.) to achieve the goal declared by the governmental authority that has adopted the relevant act (Sempill 2018).

Given the above and considering that the constitutional review authority may only be restricted in the exercise of its powers by a decision of such constitutional review authority itself,[7] one needs to highlight the following aspects. By analyzing a regulation for its compliance with the constitutional goals and restrictions, constitutional review authorities are not prevented from reviewing whether the governmental authority has made a reasonable decision. At the same time, in this case it is necessary to separate two understandings of reasonableness: one in which reasonableness is consistent with constitutional legality, and another in which reasonableness is inconsistent with constitutional legality and has the status of *contra legem* with regard to constitutional provisions and their interpretation given by the constitutional review authority.

[7] At the same time, it should be noted that a number of authors point to the existence of certain "objective" restrictions on the powers of constitutional review authorities. For example, M.S. Salikov, S.E. Libanova and I. Yu. Ostapovich cite a point of view that the powers of constitutional review authorities are restricted by objective and subjective limits of interpreting constitutional provisions, where the former are determined by applicable laws and the constitution itself, and the latter by the interpretation methods and techniques used by constitutional judges. Moreover, in the opinion of M.S. Salikov, S.E. Libanova, and I. Yu. Ostapovich, taking into account the considerable scope of discretion that constitutional review authorities have in interpreting constitutional provisions, *bona fide* observance of the subjective limits of interpretation is to be guaranteed through imposing the requirement of high qualification on the candidates for the positions of constitutional judges (Salikov *et al.* 2019, p. 220).

In the first of the above cases, constitutional review authorities may limit the scope of their review of the relevant law provision for constitutionality by recognizing the decision made by a relevant governmental authority as constitutional, even if such decision is recognized as constitutional in specific social and political circumstances.[8] In such a case, constitutional review authorities may refrain from considering whether a regulation is constitutional on its merits, as well as refrain from considering other permissible ways of achieving a constitutionally meaningful goal set by a governmental authority when making a decision, and limit themselves in providing explanations to such governmental authority regarding possible ways of improving the regulatory framework. In addition, by "weighing" various constitutional values during their constitutional review, in situations where each of the possible approaches is constitutionally acceptable, the constitutional review authority (relying on the greater awareness of the governmental authorities regarding non-legal social factors known at the time when the decision is made) can find that the legal provision is constitutional without providing its vision of potential future changes to legal regulation (for example, in case of changes in social factors that have influenced the decision making by the governmental authority) to avoid limiting other public authorities in the further exercise of their powers.[9]

In a situation where a constitutional review authority examining a specific case comes to a conclusion that the relevant governmental authority has violated the constitutional boundaries (constitutional principles and goals) within which the governmental

[8] Russian constitutional justice case law includes many examples that clearly illustrate that when considering specific cases, constitutional review authorities take into account various socio-political conditions that affect the implementation of the public policy in relevant areas. One such example includes the case examined by the Constitutional Court of the Russian Federation reviewing the constitutionality of the provisions of Article 11 and Paragraphs 3 and 4, Part 4, Article 392 of the Civil Procedure Code of the Russian Federation at request by the Presidium of the Leningrad District Military Court. In the above case, the Constitutional Court of the Russian Federation confirmed its own position on the legality of restricting the right of men serving in the military under a contract to parental leave, while a similar right was recognized by the legislator for women serving in the military, indicating that the respective decision was due, among other things, to the "limited involvement of Russian women in the military service" and the "special social role of women in society". See: Resolution of the Constitutional Court of the Russian Federation Reviewing provisions of Article 11 and Paragraphs 3 and 4, Part 4, Article 392 of the Civil Procedure Code of the Russian Federation for constitutionality at request by the Presidium of the Leningrad District Military Court, dated 06 Dec 2013, No. 27-P. Official legal information website: http://www.pravo.gov.ru 10 Dec 2013 [Access 10 May 2019]. On a separate note, the above case of the Constitutional Court of the Russian Federation is also remarkable in that it was the first case where the Russian Constitutional Court found that it may also review matters related to determining whether decisions made by supranational human rights bodies (ensuing from Russia's obligations under an international treaty signed by the Russian Federation) are enforceable in Russia. For instance, when analyzing the above decision of the Russian Constitutional Court, Morshchakova writes: "The Constitutional Court has also initiated the creation of constitutional justice procedures operating at the national level to be triggered in cases when there is doubt about the enforceability of an international treaty and decisions taken by supranational jurisdictional bodies, which essentially answers the question of how a state being a party to an international treaty should act in such cases. This example of the Constitutional Court exercising its competence to determine its own competence has also already ended as law, but it was originally formulated in a decision of the Constitutional Court itself" (Morshchakova 2017).

[9] Such an approach implements the doctrine of judicial self-restraint, the elements of which include, among others, the application of the presumption of the legislator's good faith and constitutionality of the disputed law provision by constitutional review authorities reviewing such law provision for constitutionality (Ostapovich 2019, p. 119).

authorities should exercise their powers, such constitutional review authority cannot limit the exercise of its own powers in any way. Such actions by constitutional review authorities would contradict the purpose of granting the respective powers to them.

The above "weighing"[10] of various constitutional values by constitutional review authorities in performing their activities also reflects the political nature of their functions.[11] Weighing or balancing constitutional values means comparing and prioritizing constitutional values when exercising constitutional review. Constitutional review authorities should take into account admissible restrictions on the rights and freedoms that can be imposed by governmental authorities, since such restrictions are in most cases intended to protect human rights and freedoms and, consequently, remedy situations where the protection of some rights and freedoms is opposed to the exercise of other rights and freedoms.[12]

In the global practice, there are several different approaches to understanding the weighing of constitutional values used by constitutional review authorities, one of which, being the most widespread, reduces the weighing procedure to the application of the proportionality principle by constitutional review authorities. In its turn, legal theory also distinguishes between different concepts of how the proportionality principle should be construed (Tan 2017, Ponomarenko 2019). For example, L.B. Tremblay singles out two models of the principle of proportionality as applied by constitutional review authorities in their own work – "priority of rights", which gives priority to human rights over other constitutional values and interests, and "optimization of values in conflict", where human rights do not have such priority *a priori*, and constitutional review authorities should treat equally both human rights and other constitutional values and interests when making their decisions (Tremblay 2014, pp. 866, 868).

Speaking about constitutional review authorities searching for a balance between mutually exclusive rights and freedoms, a number of scholars directly consider such activities as political. In particular, Judge of the Constitutional Court of the Russian Federation G.A. Hajiyev, citing an example of resolving a conflict between two constitutional principles – those of the freedom of economic activity and the social state, says that the constitutional review authority is to "unite and separate" these values, as well as to "find a balance" between them, referring to this work of the Russian

[10] In addition to the term "weighing", foreign constitutional theories also use the term "balancing". In this publication, both terms are used as synonyms.

[11] As noted by a number of researchers, the balancing of constitutional values, as well as the principle of proportionality directly related to such activities of constitutional review authorities, is currently one of the most important elements of legal reasoning in foreign constitutional practice, which is reflected in the implementation of the powers of constitutional review authorities of the U.S., European and Latin American countries (Lauder 2016, p. 228).

[12] One of the most striking examples of weighing techniques used by constitutional review authorities in resolving conflicts between constitutionally meaningful values includes the case of Erich Lüth, which was considered by the German Federal Constitutional Court in 1958. Guided, inter alia, by the fact that civil law should not restrict constitutionally guaranteed rights and freedoms, which also include the freedom of expression, the German Federal Constitutional Court gave priority to protecting the freedom of expression over public policy (Alexy 2003, pp. 132-133). For more details, see also: BVerfG, Urteil vom 15.01.1958 - 1 BvR 400/51, 1 BvR 400/51, BVerfGE 7, 198, NJW 1958, 254, 15th January 1958, Germany; Constitutional Court (BVerfG).

Constitutional Court as "constitutional politics" (Katanian 2008). This opinion has support in the scientific community, reflected in the statement that in order to find out whether a regulation is constitutionally compliant, the constitutional review authority should identify the potential impact of constitutional principles on the system of social relations, searching for a balance between them (Liverovskii 2018, pp. 242–243).

According to a number of researchers, constitutional review authorities also perform a political function in its broader sense; namely, they are fully-fledged stakeholders in a country's political processes, which are most clearly manifested during political crises. For example, N.D. Brown and D.G. Waller note in this regard that constitutional review authorities can play an active political role when there is an internal political conflict and the constitutional review authorities have their own institutional interests and sufficient legal mechanisms to promote them, as well as when they are headed by individuals with strong personalities capable of confronting other stakeholders of the internal political process (Brown and Waller 2016, p. 821).

4. Discussion

The following conclusions have been drawn from the conducted analysis of constitutions and national legal systems of countries with the highest and lowest rankings across a number of areas:

Correlation between legal tradition and the rule of law index

The focus of a legal system to a particular legal tradition does not predetermine the extent to which the rule of law is implemented. The Romano-Germanic legal tradition is represented by three sub-systems (Scandinavian, German, and Roman), with the top 4 countries of the index belonging to the Scandinavian legal tradition. However, the most telling feature of the legal systems within this correlation is the strong role of the judiciary, regardless of whether courts create legal precedents in the classical sense of the word or not.

Correlation between the rule of law index and socioeconomic development

Legal systems with the highest rule of law index have a high level of social and economic development. Their economies are, however, largely socially oriented.[13]

The findings within this correlation confirm that a highly developed legal system and an underdeveloped economy are incompatible (Tsindeliani *et al.* 2021). However, a highly developed economy does not necessarily lead to a highly developed legal system (the rule of law), as is clearly evident in a number of countries in the Arab East with some of the world's highest GDP per capita.

However, countries with socially oriented economies are almost always characterized by a high rule of law index, which is not, apparently, a direct consequence of the social focus of their economies, but rather one of its fundamental pillars.

A high rule of law index also correlates with strong performance across a number of other areas related to the operation of the legal system.

[13] According to the Organisation for Economic Co-operation and Development, public social expenditures range between 15% and 29%.

For instance, according to the Gender Inequality Index for 2020, presented by the United Nations Development Programme, there is a clear correlation between a country's position in the WJP ranking and the value of the index (Human Development Reports 2020). 14 out of the top 15 countries in the WJP ranking are among the 25 countries with the lowest levels of gender inequality. At the same time, the lower the WJP index is, the higher the gender inequality index becomes: 10 of the WJP mid-ranking countries ranked from 29th to 100th among countries with the lowest level of gender inequality. Of the 10 countries with the lowest WJP index, not a single country was included in the top 100 countries with the lowest gender inequality index.

According to the life expectancy statistics for 2020 explored by the World Health Organization (WHO), there is a correlation between the position of a country in the WJP rating and these WHO statistics: 13 of the top 15 countries in the WJP ranking are among the 25 states with the highest life expectancy, with the average life expectancy in the top 15 countries of the WJP index being 81.9 years. Ten mid-ranking countries in the WJP index have a life expectancy of 74.5 years, while the last ten countries have a life expectancy of 67.6 years. The above data quite clearly show a correlation between the position in the WJP rating and life expectancy performance (WHO 2020).

Constitutional structure and the rule of law index

There is no representative relationship between the constitutional structure and the rule of law index. However, it should be noted that most constitutions of modern states have an institutional structure peculiar to the countries of the Romano-Germanic legal system.

For example, the constitutions of Canada, Great Britain, New Zealand, and Sweden include multiple documents; that is, they are not codified. At the same time, the scope of constitutions and their level of detail do not correlate with the position of a country in the WJP rating.[14]

Nor will it be fair to assert that the position of chapters in a constitution indicates the priority of certain provisions for the state. In Denmark, for example, only Chapter 8 of the Constitution deals with legal rights, while in many other jurisdictions these provisions can be found in the initial chapters of their respective constitutions.

Media freedom and the rule of law

Most of legal systems ranking at the top of the Rule of Law Index are characterized by a high degree of media freedom, as evidenced by the Reporters Without Borders' (RSF) data for 2021 (Reporters without Borders 2021).

[14] However, the non-codified nature of constitutions gives rise to scientific discussions about the nature of such constitutional structure, primarily regarding whether constitutional and legal objectives can be effectively achieved through such a structure. For example, Blick draws attention both to the advantages of the British Constitution, which, in particular, ensures the flexibility of the entire legal system, and to its shortcomings such as the uncertainty related to constitutional law regulation (Blick 2016, p. 49). At the same time, S. Payne points out that the "open" nature and "uncertain scope" of the British Constitution may have a negative impact on certain constitutional and legal decisions made by governmental authorities, which, in his opinion, requires reforming the existing legal system through developing a codified constitution (Payne 2018, p. 441).

However, there are a number of exceptions to this pattern, because in some East Asian countries, the level of media freedom is relatively low despite a high rule of law index (Japan, Singapore).

Correlation between the rule of law, democratic institutions, and civil society organizations

Legal systems with a high rule of law index have highly developed democratic institutions and civil society organizations. This correlation manifests itself in many aspects.

For instance, most developed legal systems have, as a rule, a highly developed civil society, their citizens are actively involved in the activities of local communities: according to CIVICUS, an international non-profit civil society research organization, developed legal systems offer their citizens free access to involvement in activities of public importance. The exceptions are the UK, and Japan, where access to such activities is considered to be limited, as well as Singapore, which has a low level of citizens' involvement in activities of public importance (CIVICUS 2021).

In case of electoral institutions at the level of national parliamentary elections, practice shows that countries with the highest rule of law index scores tend to have a proportional electoral system.

It is also important that all highly developed legal systems have a high level of voter turnout in national parliamentary elections due to a strong legal culture of their citizens or (rarely) because their citizens must exercise their rights to vote by law. For example, the average percentage of voter turnout in recent parliamentary elections in highly developed legal systems is about 77%, although not all countries tend to have exceptionally high rates.[15]

The following patterns can be identified regarding the principle of secular state and religious institutions.

The separation of state and religious institutions is typically listed among the necessary attributes of a democratic society (mainly in contrast to Islamic theocratic monarchies). Meanwhile, many legal systems with the highest rule of law indices tend to have a definition of an official religion in their constitutions along with freedom of religion (e.g., Denmark, Sweden, United Kingdom), which, however, does not mean theologization of public and state institutions, unlike, for example, a number of Islamic states, which have a rather high level of theologization. For instance, according to Freedom House's Freedom in the World 2019 report, European countries with an official religion show a high level of freedom, the total Freedom Index is 97% for Denmark, 100% for Norway, 100% for Sweden, 93% for the UK, 82% for Monaco, and 87% for Greece (Freedom House 2021).

[15] For example, according to the results of the last parliamentary elections (June 2019), the turnout in Singapore was 93.5%, while in Japan it was 53.6%. The turnout percentage was 78.2% in Norway, 76.2% in Germany, 68% in Canada, 85.8% in Denmark, 70.1% in Finland, 87.1% in Sweden, 81.9% in the Netherlands, 80% in Austria, 79.8% in New Zealand, 63.7% in Estonia, 91% in Australia, 68.8% in the United Kingdom, and 89.4% in Belgium. (According to official information sources of parliaments and election authorities of the above countries).

The inclusion of an official religion into the constitutions of developed legal systems has no significant impact on society and the state, as it is offset by the corresponding high level of freedom. It is also important that in most countries with a high level of legal and technological development, formal forms of religion are prevalent as opposed to traditional,[16] inherent to more archaic societies. This allows asserting that countries with an official religion included in their constitution and with a high level of religious freedom and socially expressed formal religiosity – rather than traditional religiosity – will differ little in this aspect from secular states with a similar high level of religious freedom (as a classical parliamentary monarchy is hardly different from a classical parliamentary republic in terms of the operation of its institutions). While individual states with a predominance of traditional religiosity and constitutionally defined as secular states may have a low level of religious freedom. This suggests a lack of a representative connection between the constitutional regulation of religious beliefs and the level of religious freedom, as well as the relevant style of public life.

The example of Denmark is quite telling. Despite the most favorable provisions in the Constitution and legislation regarding the Church of Denmark, the level of religious freedom is high, and in 2017 the Parliament decriminalized the crime of blasphemy.

At the same time, there is also a different correlation – the level of religious freedom and the type of society are influenced by such factors as the level of socio-economic development, technological advances, and education: the higher the score for these factors, the lower the degree of influence of religion on public life. However, it should be noted that this pattern, based on modern sociological research, has a number of exceptions (for example, the US), but in general, if one transfers the empirical data onto the world map, this pattern becomes quite self-evident.

Thus, the inclusion of an official religion into the constitution has almost no correlation with the legal development and the type of society provided that the country's civil society institutions are highly developed and independent from both the state and clerical structures.

Political structure of the parliament and the rule of law

The political structure of most parliaments in highly developed jurisdictions is highly representative of public interests. In Finland, for example, the gap between the top four parties is rather small (24.5%, 19%, 18.50%, and 17%, respectively). The Finnish parliament is made up of centrists, right-centrists, conservatives, social democrats, leftists, and the "green".

In Germany, the three leading parties are represented in parliament at a ratio of 35%, 22%, and 13%, respectively. Overall, a similar picture is observed in other leading countries of the WJP rating.

Therefore, the political systems of the most developed legal systems tend to lack a pronounced political dominance in their parliaments.

In this regard, it is necessary to pay attention to such an important factor as the need to ensure that the electoral system guarantees representative elections. For example, in a state with one dominant political party and a mixed *parallel* electoral system (as, for

[16] For more details, see Barannikov and Matronina 2004, pp. 102–107.

example, in Russia), this one party with a rating of about 40% easily wins about 70% of seats. On the contrary, in case of a mixed non-parallel electoral system for parliamentary elections (as in Germany, for example) such distortions can be safely avoided even in the presence of a dominant party.

Territorial structure of the state and the rule of law

There is no correlation between the territorial structure of the state and the level of the rule of law, since the respective jurisdictions are represented by both federative and unitary states.

Neither does the degree of decentralization of power in a particular state matter in this context. For example, Article 74 of the German Constitution, which establishes the competing legislative competence of the federal center and the Lands, provides that Lands may exercise a sufficiently wide range of powers. In turn, the United Kingdom, as a unitary state, has a high level of decentralization with respect to its constituent entities. At the same time, most other highly developed jurisdictions, including smaller ones (with the exception of Austria, which is a federation), have a relatively high degree of power centralization.

It should be noted that federal states, among the developed countries, have a high level of political and financial independence of their administrative and territorial units and real opportunities to exercise the powers granted to their constituent entities through a system of differentiating competences and powers according to the principle of subsidiarity.

Public happiness and the rule of law

An interesting metric that correlates with a state's performance includes the level of perceivable well-being of its population. This metric depends on many factors affecting the level of economic development, health, education, technology, environment, etc.

According to the World Happiness Report 2018 prepared by the United Nations, a high level of population happiness is ensured in most of the covered jurisdictions, except for Singapore (34th), Japan (54th) and Estonia (63rd) (Finland ranking 1st and the UK 19th).

In this regard, it would be reasonable to believe that the rule of law (and, in turn, the high level of political and civil liberties, socio-economic development, etc.) somehow leads to the happiness of people.

5. Conclusion

Based on the correlation between constitutional provisions and a number of characteristics of countries that reflect various aspects of their societies, it would be reasonable to conclude that there is no obvious correlation between the actual level of implementation of rights and freedoms and the potential for social development, on the one hand, and constitutional provisions themselves, on the other hand. Simply put, what is written in the constitution is not at all as important as the independence and conscientiousness of the judges, adequate parliamentary representation, etc., because the tools for the implementation of these maxims are set out more or less uniformly in most constitutions across the world.

Despite the fact that national constitutions of different countries have much in common in terms of their structure and the "list" of constructs covered, the public life as well as the level of securing human rights and freedoms in these countries can be different. At the same time, an analysis of social practices reflecting the actual approaches to disclosing the content of these constructs and ways to achieve certain goals of social development allows identifying certain correlations between the actual state of respective social relations and the methods implemented due to the achievement of a specific social effect.

Only by abandoning a narrow-minded dogmatic approach, reducing legal ontology to regulatory texts, and overcoming positivist/statist approaches (which transform jurisprudence into legalism) hardwired in Russian legal theory, one can undertake legal studies of fundamentally new quality to build a representative basis for improving national legal systems.

References

Alexy, R., 2003. Constitutional rights, balancing, and rationality. *Ratio Juris*, 16(2), 131–140.

Arban, E., 2015. Re-centralizing subsidiarity: interpretations by the Italian Constitutional Court. *Regional & Federal Studies*, 25(2), 129–144.

Avakyan, S.A., 2018. Problems of direct operation and application of the Constitution of the Russian Federation of 1993. *Constitutional and municipal law*, 12, 18–26.

Barannikov, V.P., and Matronina, L.F., 2004. Dinamika religioznosti v informatsionnom obschestve [Dynamics of religiousness in an information society]. *Sotsiologicheskiye issledovaniya* [Sociological Studies], 9, 102–107.

Blauberger, M., and Schmidt, S.K., 2017. The European Court of Justice and its political impact. *West European Politics* [online], 40(4), 907–918. Available from: https://doi.org/10.1080/01402382.2017.1281652 [Access 5 November 2021].

Blick, A., 2016. The merits of a written constitution. *Judicial Review*, 21(1), 49–52.

Bondar, N.S., 2011. *Sudebnyy konstitutsionalizm v Rossii v svete konstitutsionnogo pravosudiya* [Judicial constitutionalism in Russia in the light of constitutional justice]. Moscow: Norma, Infra-M.

Bondar, N.S., and Dzhagaryan, A., 2016. Direct effect of the Constitution: generation and constitutional justice guarantee. *Comparative Constitutional Review*, 3, 52–78.

Boxill, B.R., 2019. Dignity, Slavery, and the Thirteenth Amendment. *In:* B.R. Boxill, *The Constitution of Rights* [online]. Ithaca: Cornell University Press, pp. 102–117. Available from: https://doi.org/10.7591/9781501737213-007 [Access 5 November 2021].

Brand-Ballard, J., 2010. *Limits of Legality: The Ethics of Lawless Judging*. New York: Oxford University Press.

Brinks, D.M., and Blass, A., 2017. Rethinking judicial empowerment: the new foundations of constitutional justice. *International Journal of Constitutional Law*

[online], 15(2), 296–331. Available from: https://doi.org/10.1093/icon/mox045 [Access 5 November 2021].

Brown, N.J., and Waller, J.G., 2016. Constitutional courts and political uncertainty: constitutional ruptures and the rule of judges. *International Journal of Constitutional Law* [online], 14(4), 817–850. Available from: https://doi.org/10.1093/icon/mow060 [Access 5 November 2021].

CIVICUS, 2021. *CIVICUS Monitor tracking civil space* [online]. Johannesburg/Geneva/New York: CIVICUS. Available from: https://monitor.civicus.org [Access 10 May 2019].

Corwin, E.S., (with H.W. Chase and C.R. Ducat, eds.), 2008. *The constitution and what it means today.* 14th ed. Princeton University Press.

Cross, F.B., and Lindquist, S.A., 2006. The scientific study of judicial activism. *Minnesota Law Review* [online], 91, 1752–1781. Available from: https://www.minnesotalawreview.org/wp-content/uploads/2012/01/CrossandLindquist_Final.pdf [Access 5 November 2021].

Fabrikant, R., 2017. From Warren to Burger: race relations inside the court. *Mitchell Hamline Law Review* [online], 43(6), 1–9. Available from: https://open.mitchellhamline.edu/mhlr/vol43/iss6/1 [Access 5 November 2021].

Freedom House, 2021. *Freedom World 2021* [online]. Available online: https://freedomhouse.org/report/freedom-world/freedom-world-2019/map [Accessed 09 November 2021].

Hasbrouck, B., 2020. Abolishing Racist Policing with the Thirteenth Amendment. *UCLA Law Review* [online], 67, 1108–1113. Available from: https://scholarlycommons.law.wlu.edu/wlufac/631/ [Access 5 November 2021].

Human Development Reports, 2020. *Gender Inequality Index (GII) 2020* [online]. Available from: http://hdr.undp.org/en/composite/GII [Access 9 November 2021].

Huscroft, G., and Miller, B.W., 2011. *The Challenge of Originalism: Theories of Constitutional Interpretation.* New York: Cambridge University Press.

Katanian, K., 2008. Konstitutsionnyiy sud vsegda zanimalsya politikoy [The Constitutional Court has always been involved in politics]. *The New Times* [online], 16 June. Available from: https://newtimes.ru/articles/detail/4055/ [Access 12 October 2020].

Kmiec, K.D., 2004. The origin and current meanings of judicial activism. *California Law Review* [online], 92(5), 1441–1477. Available from: http://dx.doi.org/10.15779/Z38X71D [Access 5 November 2021].

Lauder, K.H., 2016. A critique of balancing and the principle of proportionality in constitutional law–a case for "impersonal rights"? *Transnational Legal Theory* [online], 7(2), 228–256. Available from: https://doi.org/10.1080/20414005.2016.1176791 [Access 5 November 2021].

Liverovskii, A.A., 2018. Razvitie ponyatiynogo apparata konstitutsionnogo prava [The development of the constitutional law conceptual framework]. *Pravo. Zhurnal Vysshey shkoly ekonomiki* [Right. Journal of the Higher School of Economics] [online], 2, 229–247. Available from: https://doi.org/10.17323/2072-8166.2018.2.229.247 [Access 5 November 2021].

Malko, A.V., and Salomatina, A.Y., 2017. *Strategiya razvitiya pravosudiya v usloviyah globalizatsii* [Strategy of justice development amidst globalization]. Monograph. Moscow: RIOR: INFRA-M.

Mälksoo, L., 2021. International Law and the 2020 Amendments to the Russian Constitution. *American Journal of International Law,* 115(1), 78–93.

Morshchakova, T.G., 2017. O nekotoryih aktualnyih problemah konstitutsionnogo pravosudiya [On some actual problems of constitutional justice]. *Comparative Constitutional Review,* 3, 117–124.

Mulé, R., and Walzenbach, G., 2019. Introduction: two spaces of subsidiarity? *Commonwealth & Comparative Politics* [online], 57(2), 141–152. Available from: https://doi.org/10.1080/14662043.2019.1573991 [Access 5 November 2021].

Nersesyants, V.S., 2004. *Problemyi obschey teorii prava i gosudarstva* [Problems of general theory of law and state: textbook for universities]. Moscow: Norma.

Ostapovich, I.Y., 2019. Normativnost resheniy Konstitutsionnogo Suda Rossiyskoy Federatsii: metodyi ee rozhdeniya, ob'ektivnyie i sub'ektivnyie granitsyi [Normativity of decisions of the Constitutional Court of the Russian Federation: methods of its occurrence, objective and subjective boundaries]. *Tomsk State University Journal,* 31, 112–122.

Partlett, W., 2020. Russia's 2020 Constitutional Amendments: A Comparative Perspective. *University of Melbourne Legal Studies Research Paper Series* [online], no. 887. Available from: https://dx.doi.org/10.2139/ssrn.3625390 [Access 12 October 2020].

Payne, S., 2018. The supreme court and the Miller case: More reasons why the UK needs a written constitution. *The Round Table,* 107(4), 441–450.

Ponomarenko, I., 2019. On the limits of proportionality. *Review of Constitutional Studies* [online], 24(2), 241. Available from: https://www.constitutionalstudies.ca/wp-content/uploads/2021/08/03_Iryna-Ponomarenko-1.pdf [Access 5 November 2021].

Posner, R.A., 2003. *Law, Pragmatism and Democracy.* Cambridge, MA: Harvard University Press, pp. 328–331.

Reporters without Borders, 2018. 2018 World Press Freedom Index. *RFS Reporters without Borders* [online]. Paris: RSF. Available from: https://rsf.org/en/ranking [Access 12 October 2020].

Salikov, M.S., Libanova, S.E., and Ostapovich, I.Y., 2019. Konstitutsionno-kontrolnoe Normotvorchestvo V Kontekste Doktrinyi Zhivoy Konstitutsii [Constitutional review rule-making in the context of the living Constitution doctrine]. *Vestnik Tomskogo gosudarstvennogo universiteta* [Tomsk State University Journal] [online],

440, 219–230. Available from: https://doi.org/10.17223/15617793/440/30 [Access 5 November 2021].

Sempill, J.A., 2018. What rendered ancient tyrants detestable: the rule of law and the constitution of corporate power. *Hague Journal on the Rule of Law,* 10, 219–253.

Tan, D., 2017. Walking the Tightrope between legality and legitimacy: taking rights balancing seriously. *Singapore Academy of Law Journal* [online], 29, 743. Available from: https://journalsonline.academypublishing.org.sg/Journals/Singapore-Academy-of-Law-Journal-Special-Issue/e-Archive/ctl/eFirstSALPDFJournalView/mid/513/ArticleId/1246/Citation/JournalsOnlinePDF [Access 5 November 2021].

Tremblay, L.B., 2014. An egalitarian defense of proportionality-based balancing. *International Journal of Constitutional Law* [online], 12(4), 864–890. Available from: https://doi.org/10.1093/icon/mou060 [Access 5 November 2021].

Tsindeliani, I., *et al*., 2021. Transformation of the legal mechanism of taxation as a factor of influence on strategic planning of budgetary policy: Russia case study. *Journal of Transnational Management* [online], 26(3). Available from: https://doi.org/10.1080/15475778.2021.1989565 [Access 5 November 2021].

Ura, J.D., and Flink, C.M., 2016. Experience counts: the chief justice, management tenure, and strategic behavior on the US Supreme Court. *Research & Politics* [online], 3(2), 1–8. Available from: https://doi.org/10.1177/2053168016644464 [Access 5 November 2021].

Varlamova, N.V., 2008. Yuridicheskiy pozitivizm i prava cheloveka [Legal positivism and human rights]. *Obshchestvennye nauki i sovremennost* [Social sciences and modernity] [online], 1, 156–166. Available online: http://ecsocman.hse.ru/data/2010/11/26/1214821832/Varlamova.pdf [Access 12 October 2020].

Vengerov, A.B., 2000. *Teoriya gosudarstva i prava: izdanie trete* [Theory of state and law: third edition]. Moscow: Yurisprudentsiya.

Vinogradova, E.V., and Patyulin, G.S., 2020. Popravki 2020 goda v Konstitutsiyu Rossiyskoy Federatsii. K voprosu o roli konstitutsionnogo suda Rossiyskoy Federatsii v zaschite prav i svobod cheloveka i grazhdanina [2020 amendments to the Constitution of the Russian Federation. On the question of the role of the Constitutional Court of the Russian Federation in the protection of human and civil rights and freedoms]. *Obrazovanie I Pravo* [Education and Law] [online], 2, 24–28. Available from: https://doi.org/10.24411/2076-1503-2020-00063 [Access 5 November 2021].

Wang, E., 2018. The 13th Amendment Exclusion Leads to Modern Day Slavery. *Juris* [online], 30 October. Available from: https://dukeundergraduatelawmagazine.org/2018/10/30/the-13th-amendment-exclusion-leads-to-modern-day-slavery/ [Access 12 October 2020].

World Health Organization, 2020. *Life expectancy and Healthy life expectancy, data by country* [online]. Data set, last updated 4 December. Available from: https://apps.who.int/gho/data/node.main.688?lang=en [Access 9 November 2021].

World Justice Project, 2021. *Rule of law index* [online]. Available online: https://worldjusticeproject.org/sites/default/files/documents/WJP-INDEX-21.pdf [Access 9 November 2021].

Zorkin, V.D., 2018. Sut' prava [Essence of law]. *Voprosy filosofii* [Philosophy questions] [online], 5(59), 1–11. Available online: http://crimescience.ru/wp-content/uploads/2020/03/%D0%96%D1%83%D1%80%D0%BD%D0%B0%D0%BB-%D0%BA%D0%BE%D0%BD%D1%81%D1%82%D0%B8%D1%82%D1%83%D1%86%D0%B8%D0%BE%D0%BD%D0%BD%D0%BE%D0%B3%D0%BE-%D0%BF%D1%80%D0%B0%D0%B2%D0%BE%D1%81%D1%83%D0%B4%D0%B8%D1%8F-%E2%84%96559-%D0%B7%D0%B0-2017.pdf [Access 9 November 2021].