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**IMPACT OF GLOBALISATION TRANSFORMATIONS ON
THE CONSTITUTIONAL AND LEGAL REGULATION OF A PERSONAL LEGAL STATUS**

Ph. D. Ellada Yu. Balayan

Kemerovo State University (KemSU), Russian Federation

ORCID 0000-0002-4652-6521

elladalaw@yandex.ru

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Abstract

The goal of this research study is to provide an in-depth analysis of what constitutional and legal regulation of a personal status incorporates as the most important obligation of the present-day national governments with respect to preserving and protecting human values when globalisation processes are underway. A consistent and comprehensive human evolution, redundant politicization of the law, elimination of poverty, fighting for equality, global economic injustice, the search for a new ideal constitutional model, and other problems are relevant and are on the agenda for the entire global society. The countries with different economic levels, historical traditions, cultural origins, and legal systems have various concepts of human rights, freedoms and duties, and introduce them in practice in various ways. These issues are of paramount importance for Russia, which has equal rights being involved in the international intercourse and the system for global governance and international law-making. The research paper is written by making use of such general scientific and specific scientific research methods as concrete-historical, logically historical, system-based, comparative law, and others.

Keywords

Human rights – Globalisation of law – Global constitutionalism – New constitutional model

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PH. D. ELLADA YU. BALAYAN

Introduction

Modern world has increasingly been facing the problems arising from the impact of worldwide globalisation on constitutional and legal regulation of a personal status, mechanisms of national and international defence of human rights and freedoms, identification of tendencies for international public and constitutional law to develop, interact, and mutually interact.

Globalisation, as a phenomenon and a process, is an ambiguous concept for modern experts both in the area of international, and constitutional law. The publications may be encountered in some scientific periodicals that are representative of the problematic nature of globalisation processes and their impact on constitutional and legal regulation of relationships, which collectively define a subject of legal regulation of the constitutional law¹.

At the same time, the subject matter of such categories as “global constitutionalism”², “constitutional monitoring” and “constitutional diagnostics”³, “constitutional futuristic”⁴, “constitutional ideal” and new “constitutional model”⁵ and many others has not been fully studied and specified. All this indicates the need for and relevance of developing and studying various problematic aspects of such a complex phenomenon as globalisation and its impact on human rights.

Nowadays, the problems of constitutional and legal regulation of a personal status, defence of human rights, elimination of poverty, global economic justice, and other issues have constantly been the main focus of attention for the international community, transnational institutional structures, governmental entities, human rights organizations, mass media. These issues have agitated the people and have regularly been discussed during various academic and research events, being directly associated with all areas and conditions of human life activities. As M.N. Marchenko rightly states, “...studying the problems arising from the impact of globalisation and regionalization on the state and legal and social and political life is of enormous both theoretical, and practical value”⁶.

The purpose of the scientific research study is to provide a comprehensive analysis of the subject matter of constitutional and legal regulation of a legal personal status, as the primary obligation of a modern state with respect to preserving and protecting major human values in conditions of the worldwide globalisation processes.

¹ I. A. Umnova-Konukhova, “Contemporary understanding of the subject of constitutional law in conditions of binary development of domestic (national) and international law”, Actual problems of Russian law, num 10 (95) October (2018): 151-162

² A. Peters, Global Constitutionalism and global governance. Retrieved 12.01.2019 from:<http://www.mpil.de/de/pub/forschung/nach-rechtsgebieten/voelkerrecht/global-constitutionalism.cfm>

³ G. G. Arutyunyan, Constitutional monitoring as a guarantee for overcoming deficit of constitutionalism. Speaker paper at the Yerevan International Conference dated October 22, 2016. Retrieved 11.01.2019 from:http://www.concourt.am/armenian/structure/president/articles/yerevan_conf2016_ru.pdf

⁴ I. A. Umnova-Konukhova, “Constitution of the Russian Federation, 1993: assessment of the constitutional ideal model and its implementation in the context of the world’s experience”, Lex Russica, num 11 (144) November (2018): 23-39.

⁵ T. Y. Khabrieva, Constitutional reform in the modern world: monography (Moscow: Infra-M, 2017).

⁶ M. N. Marchenko, State and law in conditions of globalisation (Moscow: Prospect, 2015).

Pursuant to the specified objective, the following central problems have been formulated for the purposes of this study:

- explore problematic aspects of the subject matter of constitutional and legal regulation of a legal personal status in Russia⁷;
- examine specific aspects of the impact of the worldwide globalisation processes on observance and defence of human and civil rights and freedoms in Russia;
- analyse shortcomings of the Russian Federation legislation in effect and suggest specific measures to improve it.

The conclusions and suggestions provided herein may be used to enhance the effectiveness of activity of governmental authorities, local self-government authorities.

The author of the paper has made an attempt to only specify some problems with no purporting to completely and finally solve them; and will appreciate any constructive suggestion and comment, as not just an evidence of formal interest to the discussed subject, but a personal involvement in really preserving and protecting the most essential common human values in the modern conditions of globalisation of constitutional law.

Materials and methods

The background for methodology of the study constitutes such scientifically developed and practically used key scientific methods as dialectical cognitive method that allows to analyse all the phenomena and processes in their evolution, interrelation, and interdependence, as well as general and specific scientific methods, analysis, concrete-historical, logically historical, system-based, comparative-legal, and other methods

Theoretical background for the study involves the works of foreign and domestic specialists in the area of constitutional law, theory of state and law, international law, and other areas of law science. The material of the research paper is based on examining various scientific information sources: monographs, theses, scientific papers, materials of research and practical conferences, and so on. As far as the problems discussed in the paper are concerned, the author has studied and taken into account the opinions of a number of such famous scientists-legal experts as: G.G. Arutyunyan, N.S. Bondar', T.A. Vasilieva, A.A. Dzhagaryan, A.V. Zakharov, V.A. Kartashkin, I.A. Kravets, E.A. Lukasheva, I. Lukashuk, S.V. Narutto, V.V. Nevinskiy, I.A. Umnova-Konukhova, V.E. Chirkin, T. Y. Khabrieva, B.S. Ebzeev, I. Brownlee, E. Engle, T. Farer, P. Kennedy, K. Möller, K. Nicolaidis, K. Ohmae, A. Peters, D. Rodrick, and others, to whom the author expresses her deep sense of gratitude.

A regulatory framework for the study was as follows: the Constitution of the Russian Federation dated 1993, other Russian laws, constitutions and case law of other countries, judgements of Constitutional courts of some countries, individual judgements of European Court of Human rights, essential international legal acts.

⁷ With no intent of fully and thoroughly analysing the concept of "legal personal status" both due to the limited scope of this paper, and taking into account somewhat different research problems, one shall specify some important aspects of the impact, globalization processes have on the most essential structural elements of a legal personal status in the context of defending human rights in a modern state. For more detail on the concept of constitutional-legal status of a person. Please see: E. Yu. Balayan, "Problematic aspects of constitutional-legal status of a person in the modern state", Bulletin of Kemerovo State University, num 4 (64) (2015): 177-181

The structure of the research paper is related to the position of the author on the issues in question. First, the author specifies relevant problems that shall be further studied in depth and in an integrated manner.

Hereafter, some particular constitutional characteristics of the Russian state are considered in the context of globalisation impact thereon; an importance of a state's carrying out an effective social policy in the stressful conditions of the modern world evolvement is especially emphasized.

The problem of the impact of globalisation on an individual, its rights and duties, the most essential components of social interactions is of key importance for Russia, since even recently in the Soviet literature the problem of the human rights, the questions of thorough constitutional and legal regulation of a personal status had not been recognized as relevant, and exercising the right to freedom of speech and thought (criticism of authorities, in particular) was considered as an illegal activity with all that it entails

It is supposed that comprehensive and natural evolvement of an individual, state, international community, constitutional dimension of interaction and interdependence between the above-mentioned subjects of law shall specify the importance of examining globalisation transformations and their impact on creating a new constitutional model.

On the basis of the above, the research paper is intended for examining the problem of the impact of globalisation on the basic law of a state, regulation of the most important problems with observing and protecting major human and civil rights and freedoms, duties, guarantees for implementing common human values in conditions of contemporary globalisation processes as a constitutional duty of a social state, an indispensable prerequisite for stability in society and state.

Discussion

Processes of globalisation and specific constitutional characteristics of the Russian state

What is globalization? This is the central question to be answered. There is no a general consensus in scientific literature on how this phenomenon is defined. On the whole, one may agree that globalisation is an on-going process, during which the political, social, economic, and cultural impact stepwise becomes identical across the entire worldwide community⁸.

There may be various attitudes towards globalisation, however, it is an objective and natural process of evolvement of the modern world, constitutional law, international public law. The problem of globalisation has not been raised today. All possible aspects and contexts of this trajectory of development of our planet have been examined by the experts in various scientific areas. The opinions voiced about expectations and perspectives of globalisation have been, remain, and will be different⁹.

⁸ Similar in meaning definition of "globalisation" may be found in the Cambridge dictionary. Internet access. Retrieved 25.02.2019 from: <https://dictionary.cambridge.org/ru/>

⁹ For more detail please refer to: P. Kennedy, Preparing for the twenty first century (New York, 1993); K. Ohmae, The borderless world (New York, 1990); D. Rodrick, Has globalization gone too far? (Washington, DC, 1997).

Globalisation processes have an enormous impact on law, as a whole, constitutional law, in particular, and legal status of an individual, most notably. As it is rightly stated in law books, constitutional development of any state occurs under the multi-aspect impact of globalisation processes on national legal system¹⁰. Constitutional and legal institutions have become involved in these processes to the greatest possible extent.

In conditions of Russia's integration into international and European legal framework, the importance of feedback effect on the Russian national law of global constitutionalism theory and practice shall be considered in the context of interrelation between national specific features and global regularities in development and enhancement of the main principles and institutions of modern constitutionalism¹¹.

Russian constitutional law is no exception. Constitutional dimension of phenomena and processes, that form the basis of life activities of an individual in a modern state, comes to the front. Here, it should be taken into account that a state, as a key subject of law, also constitutes a principal political player. And one can hardly disagree with A.V. Zakharov's opinion that "The level of impact of global factors on the national state and law depends on the exterior, formal component of state and legal institutions, and substantially involves their intrinsic and conceptual components"¹². At the same time, as M.N. Marchenko states: "However, an institutional component shall not be ignored, since globalisation affects a state and a law both with its functional component (through the system of integrative factors), and institutional one (through the system of institutions, engendered and cultivated by globalisation)"¹³.

Modern world, society, an individual undergo changes with a dramatic speed. Law, including constitutional law, under the impact of intense globalisation processes, become ever more politicized. The states do whatever it takes to preserve social cultural, spiritual identity, ideological independence, retain their national-sovereign rights and interests "against the background of financial and economic, geopolitical, ethno-confessional and other social contradictions. It is eventually related to the system crisis in the traditional institutions of constitutional state mechanism, including critical deficit of trust for both the state itself, its authorities, and the enacted laws."¹⁴. Therefore, Professor S.V. Narutto rightly specifies negative consequences, which may a priori arise due to violation of requirements of legal workmanship: "Statutory provisions that do not meet criteria of clarity, transparency, intelligibility, stability engender contradictory law-enforcement practice, create their potential ambiguous interpretation and arbitrary application, thus, leading to violating constitutional guarantees of state, and judicial among others, defence of rights, freedoms, and legal interests of citizens, guaranteed by the Constitution"¹⁵.

The above-listed and other problems aggravate global social injustice, social inequality, lessen possibilities of national governments to overcome poverty, facilitate lack

¹⁰ T. Y. Khabrieva, *Constitutional reform in the modern world: monography* (Moscow: Infra-M, 2017).

¹¹ I. A. Kravets, "Two guarantors of Constitution in the Russian constitutionalism and a concept of a powerful state", *Constitutional and Municipal law*, num 1 (2014): 4-7.

¹² A. V. Zakharov, "Impact of globalisation on the functions of a modern state", *Juridical World*, num 11 (2016): 46-48.

¹³ M. N. Marchenko, *State and law in conditions of globalisation* (Moscow: Prospect, 2015).

¹⁴ N. S. Bondar' & A. A. Dzhagaryan, *Public justice: orientation to Constitution. Monography* (Moscow: Norma: INFRA-M, 2018).

¹⁵ S. V. Narutto, "Definiteness of law as a guarantee for human and civil rights and freedoms in constitutional-judicial doctrine", *Lex Russia*, num 10 (143) October (2018): 40-49

of legitimacy of state authorities and local self-government authorities, and, eventually, of the state constitution and even of the generally recognized norms of international law.

Nevertheless, generally recognized norms and principles of international law are conceptually associated with the constituent function of the Russian Federation Constitution¹⁶, form an integral part of legal system of the state, constitute the basis of a legal personal status, are a measure and a guarantee for assuring and protecting human rights and freedoms, including those in conditions of worldwide globalisation.

Constitution of the Russian Federation proclaims the country as a democratic state (article 1), acknowledging that multinational people of Russia¹⁷ are the only holder of sovereignty and source of power (part 1 of article 3). The democracy prerequisites are recognition and consolidation of human rights and freedoms, true sovereignty, adherence to the principle of checks and balances in the context of exercising public authority, political diversity and pluralism, legitimacy of constitution and its actual action.

Constitution of Russia asserts that the people exercise their power directly, and through the state authorities and local self-government authorities, i.e. in two forms: direct and indirect democracy.

The direct form of democracy implies that each citizen through taking part in referendums, meetings, demonstrations, and other mass events, is involved in managing state and public affairs. The mechanisms and guarantees for exercising human rights are enshrined in the Russian Federation Constitution (articles 32 and 130), federal laws¹⁸. For instance, the enacting clause of the Federal constitutional law of the Russian Federation “On the Russian Federation referendum” proclaims that “the state guarantees the Russian Federation citizens free act and deed in the referendum of the Russian Federation, defence of democratic principles and norms of law, which specify a right of citizens to take part in the referendum”.

In terms of global constitutionalism, the most important norm implies part 5 of article 12, declaring the provision that states that the referendum issues shall not restrict or abolish generally accepted human and civil rights and freedoms, constitutional guarantees of exercising such rights and freedoms.

Since the Constitution recognizes that the people are the only source of power, it is therefore methodologically justified that the laws on referendums acknowledge the people

¹⁶ B. S. Ebzeev, “Globalisation and emergence of transnational constitutionalism”, *Juridical Techniques*, num 11, (2017): 601-609.

¹⁷ Thus, in all general laws of countries with democratic systems, a formula “All power belongs to the people” gained general recognition, with minor differences in formulating. For example, Federal constitutional law of Austria (article 1), Constitution of Belgium (article 33), Constitution of Federal Republic of Germany (clause 2 of article 20), Constitution of Greece (clause 3 of article 1), Constitution of Italy (article 1) and the respective articles of general laws of the other countries (Constitutions of European Union countries (introductory article of Dr. of Jur. sciences, Prof. V.V. Nevinskiy). Moscow, 1995.

¹⁸ Federal constitutional law (FCL) «On the Russian Federation referendum» № 5 dated 28.06.2004. Corpus of legislative acts of the Russian Federation, 05.07.2004. № 27, art. 2710; FL “On the main guarantees for voting rights and a right to participate in referendum of the Russian Federation citizens” № 67 dated 12.06.2002. Corpus of legislative acts of the Russian Federation, 17.06.2002. № 24, art. 2253.

as a subject that might initiate referendum. The problem is that when creating and establishing a democratic and law-governed state it is essential to what degree the people are the holders and the source of the power that belongs to them.

Another very important constitutional form of exercising people's sovereignty in a democratic state is a representative democracy¹⁹, which implies that the people manage state affairs through free and fair elections via forming the most essential and basic state institutions (president, parliament, local self-government authorities)²⁰. These authorities, as the authorised representatives of the people, within their terms of reference, adopt legal acts, through which the will of the people's majority is transformed into compulsory rules of conduct, a political will.

Moreover, as per Federal Law № 131-FL dated 06.10.2003 "On the general principles of organizing local self-government in the Russian Federation" (part 1 of article 1): "Local self-government constitutes one of the foundations of constitutional system of the Russian Federation, is recognized, guaranteed, and performed throughout the entire Russian Federation". Moreover, "Local self-government in the Russian Federation is a form of the people's exercising their authority..." (part 2 of article 1)²¹. Hence, an active and proper participation of residents of municipal entities is essential when solving the problems of local significance. Therefore, it is quite justified to ensure that non-citizens, who permanently live in this community and have a residence permit, may have a right to participate in the local self-government authorities' elections and referendum on the local issues. This idea, with certain restrictions, is enshrined in the Russian law²².

One more essential attribute of the Russian democratic state in conditions of global constitutionalism is a national selection of a liberal concept of a personal legal status, which implies legislative recognition and provision of natural and undeniable human rights and freedoms²³. In the context of putting in action part 4 of article 15 of the Russian Federation Constitution, an obligation of a state is acknowledged as legal to recognize, observe, and defend main human rights and freedoms enshrined in the norms of international law²⁴. By way of example, a norm from the International Covenant on Civil and Political rights (December 16, 1966) may be cited, according to which each state-participant shall: a) for any person, whom rights and freedoms, recognized by this Covenant, are infringed, provide "a required legal remedy", even if this infringement was committed by an executive officer;

¹⁹ On representative democracy for more detail please refer to: S. V. Maslennikova, Representation of people and civil rights in the Russian Federation (Moscow, 2001); V. M. Gorodetskiy, "Ways of creating a mechanism of people's sovereignty based on the effective Constitution of the Russian Federation", Constitutional and Municipal law, num 1 (2000): 15-21.

²⁰ An opinion prevails in legal books that elections are the core of democracy since through them the people deliver their mandate to their representatives, namely, deputies (V.V. Nevinskiy, Citizen and fundamental principles of the Constitution of the Federal Republic of Germany. Synopsis of thesis ... Doctor of Juridical sciences (Ekaterinburg, 1994).

²¹ Federal law, "On the general principles of organizing local self-government in the Russian Federation" № 131-FL dated 06.10.2003. Corpus of legislative acts of the Russian Federation, 06.10.2003. № 40, art. 3822.

²² Federal law, "On the general guarantees for voting rights and a right to participate in the referendum of the Russian Federation citizens" № 67 dated 12.06.2002. Corpus of legislative acts of the Russian Federation, 17.06.2002. № 24, art. 2253.

²³ A. A. Podmarev, "Constitutional consolidation of the concept of a personal status in law systems and families", Bulletin of RUDN, series Juridical sciences, num 4 (2014): 41-48.

²⁴ V. A. Kartashkin, International mechanisms of protecting human rights. How to make a complaint to international authorities (Moscow: Publ. NORMA, 2003).

b) provide for any person in need of legal defence establishment of such a right of defence from judicial, administrative, or statutory competent authorities, or other authority, provided for by the legal system of the state, and the possibility of improving judicial defence; c) arrange for implementing defence measures on the part of the competent authorities, in case of their availability (clause 3 of article 2)²⁵.

However, application of the provisions enshrined in the international legal documents, may be provided only through their detailed and specific representation in the domestic laws. In a similar manner, state authorities enter into legal relationship and communicate with the persons living in the territory of this state and having various statuses (citizens, foreigners, non-citizens).

The provisions on the human rights, enshrined by the norms of international law, find their expression primarily in the main state law. For example, Constitution of Russia declares the main human and civil rights, freedoms, and duties (Chapter 2). As in the basic international legal acts, they are enshrined in the Constitution of the Russian Federation in a system-based form that facilitates their effective use. At the same time, when improving legislation and enhancing effectiveness of state and municipal public institutions and public human rights organizations, it is advisable to systematize all norms, according to which an individual has a qualified legal assistance. For example, it is herewith suggested to develop a project of a codified act of the Russian Federation on a professional legal defence of human rights.

The meaning of the rights enshrined in the Constitution, for the state and society, lies in the fact that it is through their exercising implementation of the essential attributes of democratic and law-governed state shall be underway²⁶.

Basic laws of most modern countries involve provisions and criteria of the documents adopted by universal and regional international organizations. It is natural that the states are keen to bring more in line with each other the subject matter of constitutional norms and actual reality in the country, what is possible only in conditions of the established and existing in the country democratic system.

Constitution of the Russian Federation (Chapter 2) also proclaimed human rights and freedoms provided for by the principal international documents, and, as any democratic and law-bound state, declared: "In the Russian Federation, human and civil rights and freedoms are recognized and guaranteed according to the generally accepted principles and norms on the international law and pursuant to the present Constitution" (part 1 of article 17). Here, Constitution had provided some human rights, which were recognized as such by the international law, only to citizens.

Therefore, it is advisable in conditions of the contemporary globalisation when putting constitutional reform into practice, to declare the right for everyone of freedom to hold peaceful meetings with no weapons²⁷.

²⁵ A Compilation of International Instruments, United Nations (Geneva, 1994).

²⁶ A. G. Eritsyanyan, Human and civil rights and freedoms in a democratic state: system, institutions, legal mechanism of implementation and protection. Monography (Moscow, 1998).

²⁷ The above-mentioned norm is detailed in the effective Federal Law of the Russian Federation № 54-FL dated 19 June 2004 "On meetings, political meetings, demonstrations, processions, and picketing". "Corpus of legislative acts of the Russian Federation ", 21.06.2004, № 25, art. 2485.

A similar controversy (between Constitution, law in effect²⁸ and international law standards) had arisen in the Republic of Armenia as well prior to introducing amendments to the country's Constitution²⁹.

The way out is as follows: it is required to specify and prescribe global constitutional methodology on human rights, through recognizing and guaranteeing a supremacy of law.

At the same time, in terms of effective defence of human and civil rights and freedoms, not only statutory consolidation and recognition of these common human values seem to be important, but an adequacy and legitimacy of enforcement, applied in the process of their securing and providing. A democratic state not only agrees on the point of enforcement, but, on the contrary, suggests that it should be performed, as may be required by law. For example, defence of human rights and freedoms, prevention of crime and other law infringements is a primary obligation of any state.

This is shown by the content of article 114 (clause «e» of part 1) of the Russian Federation Constitution, norm of the Criminal and Civil Code of the Russian Federation.

It is considered methodologically valid to take various legal liability measures against law-breakers (federal state authorities, state authorities of the subordinate entities of the Federation, local self-government authorities, executive officers) in case of failure to comply with law requirements, its evasion or abuse.

Thus, as per part 2 of article 19 of the Russian Federation Constitution: "The state guarantees equality of human and civil rights and freedoms independently of gender, race, nationality, language, origin, financial and employment status, place of residence, religious beliefs, beliefs, affiliation with public associations, and other conditions. Any forms of restricting civil rights on grounds of social, race, national, language, or spiritual identity are prohibited". In case of failure to comply with the provisions of this constitutional norm, the indicated executive officers may, as prescribed by the Criminal Code of the Russian Federation, be brought to justice on a charge of exceeding authority or abuse of official position (articles 201, 202, 285).

Thus, human rights are such superior values and reference points for a modern state to be guided by. If this idea is accepted and implemented in practice, the society is characterized as stable³⁰, otherwise, a tension and a threat to progressive development of the country may be faced. It is important to emphasize that a global model of human rights is formed in the present-day conditions³¹. One might agree with the opinion of the leading Russian and foreign scientists that various models (usually, three global models are specified, in conformity with the three main legal systems) differ from one another with their socio-cultural essential nature. The processes of convergence of these global models occur differently, do not lead to essential changes in legal regulation of various human rights, and

²⁸ The Law of the Republic of Armenia "On holding meetings, political meetings, processions, and demonstrations" dated 28.04.2004. Official Bulletin of the Republic of Armenia, 12 May 2004, №26 (325).

²⁹ After introducing changes, article 29 of the Constitution of the Republic of Armenia declares: "Everyone has the right to hold peaceful meetings without weapons".

³⁰ E. A. Lukasheva, Human rights as a factor of sustainable development strategy (Moscow, 2000)

³¹ K. Möller, The Global Model of Constitutional Rights (2012); V. E. Chirkin, "Modern global models of the main human rights: a new approach", Bulletin of Kutafin Moscow State Law University, num 5 (2015): 127-134.

sometimes may involve the components of antagonistic contradictions. These contradictions may be overcome through changing the essence of these legal systems as such³².

The value of overcoming the above contradictions became more clear in terms of general regularities, from which it is evident that with no convergence and identification of the people and state interests, the existence of both the society and the state is put in jeopardy since the interests of the state are of higher priority and more important in that degree, in which they affirm and protect the rights and freedoms of the society and its members. To this extent, the subject matter of the Russian Federation Constitution proclaims that the Russian Federation refused the idea of solving the problem “individual-state” in favour of the state, when the state deals with addressing the issues of human life activity, and an individual is “made happy” and loses an opportunity for realizing human potential to the fullest³³.

The priority of an individual with respect to a state allows to define its position and role in the global community. In the modern conditions, a democratic state regulates its behaviour only in general, and in such a way, so as not to infringe human rights, sustain and protect the interests of the society members, their continuous and free evolution.

Solidary human, state and society co-existence that provides natural development to everyone, doesn't mean at all that human rights are absolute and cannot be limited. Basically, it is impossible to imagine a real freedom of a person with no harmony between its interests and the interests of society and state³⁴. This problem is reflected not only in the national legislation, but in the principal international documents. In particular, the Universal Declaration of human rights declares potential restriction of human rights to “ensure... common wealth in democratic society” (clause 2 of article 29).

The Russian Federation Constitution, in accordance with the norms of international law and in detail, does not contain constitutional limitations of restricting human rights in general and emergency situations. Thus, it is stated in the Constitution of Russia that “... Human and civil rights and freedoms may be limited by the federal law only to that extent, to which it is needed for the purposes of protecting foundations of constitutional system, morality, health, rights, and legal interests of other individuals, country's defence support and safety of a state” (part 3 of article 55). Being at accord with the idea of such a provision³⁵, it should be at the same time noted that the required restriction of each right, specified in the constitutional norm, shall always be justified. Alongside with that, recognition of the priority of rights and freedoms of an individual will violate one of the most essential and fundamental principles of democracy: exercising an individual's rights and freedoms shall not infringe the rights of the other persons. Therefore, it is noteworthy that in constitutions of some countries certain norms are enshrined that do not enable a legislative authority of a country to adopt laws, the subject matter of which is to restrict human rights³⁶.

³² V. E. Chirkin, “Modern global models of the main human rights: a new approach”, Bulletin of Kutafin Moscow State Law University, num 5 (2015): 127-134.

³³ M. V. Baglai, Constitutional law of the Russian Federation (Moscow: Publ. house Norma, 2001).

³⁴ Human rights and globalisation processes in the modern world. Publ. editor E.A. Lukasheva (Moscow: NORMA, 2007).

³⁵ A. V. Lebedev, Political rights and freedoms of the Russian Federation citizens (constitutional-legal research study. Synopsis of thesis ... Doctor of Juridical sciences (Chelyabinsk, 2003).

³⁶ Thus, according to article 18 of the Constitution of the Federal Republic of Germany, everyone, who exercises freedom of expressing opinions, in particular, freedom of press (part 1 of article 5), teaching freedom (part 3 of article 5), freedom of meetings (article 8), freedom of association, postal

Naturally, restrictions of human and civil rights and freedoms are not related to the entire complex of rights and freedoms included in a personal legal status.

The subject matter of the paper represented shall also be in compliance with some provisions of the Convention for the Protection of Human rights and Fundamental Freedoms, since it enables to temporarily restrict some rights, taking into account the extent of applying restrictions with respect to the rights, provided for by the Convention (article 18), and departing from the obligations in conditions of emergency situations³⁷ (article 15).

Besides, when considering article 56 of the Russian Federation Constitution in detail, the federal law shall take into account the provisions of the mentioned Convention. The point is that, based on article 15 of the European Convention, in emergency situations a state is enabled to depart from the obligations provided for by the Convention. However, any restriction as a result of such departure should be based on legitimacy and necessity, and, as much as possible, be short-term, not to do any harm to the obligations of this state with respect to human rights and freedoms, undertaken under other international agreements.

Along with that, for quite in-depth understanding of the purpose and essence of article 15 of the European Convention, it is essential to become familiar with the General comment No. 29 of the Human Rights Committee on article 4 of the Covenant on Civil and Political rights³⁸, where it is emphasized that the remedies of departing from the Covenant provisions shall be exceptional and temporary. Furthermore, prior to referring to article 4 of the Covenant, a state shall adhere to the two fundamental principles: the emergency situation is to threaten the nation life, and a state-participant shall officially declare an emergency situation³⁹.

One of the basic principles of establishing a democratic state, a principle of separating authorities plays an important role in the problem of assuring protection of human rights in conditions of globalisation.

secrecy, secrecy of post, telegraph, and telephone messages (article 9), ownership right or the right of asylum to fight against foundations of free democratic system, loses these basic rights. The fact and the scope of forfeiting the above right shall be defined by the Federal Constitutional Court.

³⁷ Thus, European Convention on Human rights authorizes countries-participants in certain circumstances to limit some rights, guaranteed by this international document. First, the states may, based on article 57 of the Convention, when signing it or depositing its instrument of ratification, enter a reservation to any provision of the Convention. Second, if there are grounds, listed in the second clauses of articles 8-11 of the Convention, the state might interfere in exercising the rights guaranteed by it and limit them. Third, the states are authorised in exceptional cases, to withdraw from the obligations undertaken and limit most, provided for by the Convention rights, exercising of which shall be in strict compliance with the order prescribed by the Convention.

³⁸ See: General Comment # 29 – States of Emergency (article 4), CCPR/C/21/Rev.1/Add.11 (31 August 2001)

³⁹ Thus, observance of the provisions of the European Convention on Human rights is mostly guaranteed due to international court that functions within the system of the Council of Europe. The binding nature of its decisions enforce the countries-participants of the Convention to undertake their international obligations on protecting human rights more seriously and in a more responsible manner. For more details, please refer to: judicial judgements made: with regard to case *Lawless v. Ireland* (*Lawless v. Ireland*, Judgment of 1 July 1961); with regard to case *Ireland v. United Kingdom* (*Ireland v. United Kingdom*, Judgment of 18 January 1978); with regard to case *Aksoy v. Turkey* (*Aksoy v. Turkey*, Judgment of 18 December 1996); with regard to case *Jersild v. Denmark* (*Jersild v. Denmark*, Judgment of 23 September 1994), with regard to case *Demir and other v. Turkey* (*Demir and other v. Turkey*, Judgment of 23 September 1998) and with regard to other cases.

The principle implies that for effective assurance and defence of human and civil rights and freedoms, various functions of state authority are fulfilled by different government bodies, and the latter are independent, balanced due to legal provisions, and mutually restrain each other⁴⁰. Thanks to it, a potential threat of centralizing power is eliminated, and the prerequisites needed to observe and ensure guaranteed protection of human and civil rights and freedoms are created. Here, a stepwise implementation of the principle of separating powers also guarantees independence of judicial power.

Constitutional system of Russia may be characterized with a number of basic attributes: people's sovereignty, existence of state, as an organization of all the people; duty to ensure protection of an individual, its rights and freedoms; democracy, as a foundation of political system (regime) and mode of living in Russia; ideological variety and political pluralism; freedom of economic activity and a variety of ownership forms, etc. However, the problem is that, to establish constitutional system (and global constitutionalism as well), it is not yet sufficient to have a Constitution in a law-governed state⁴¹. It is important how this constitutional system behaves in the community life, to what extent the principles enshrined in the Constitution are implemented, and the people are holders of powers, which belongs to them, how actually human rights and freedoms are guaranteed and protected, how international and legal obligations undertaken by a state, are met.

Each state may fully provide and protect rights and freedoms of its citizens and each person in its territory only when sovereignty is an essential attribute of this state. Hence, part 1 of article 4 of the Russian Federation Constitution declares: "Sovereignty of the Russian Federation extends to its entire territory"⁴². It means that the Russian Federation is capable of expressing the will of its citizens, provide and protect the rights and freedoms of the persons under its jurisdiction.

Sovereignty is a supremacy of state authority, independence of state in its territory and in relations with other states. Legal nature of the state sovereignty is manifested in supremacy of the state authority, its oneness and independence (inwardly and outwardly). As a sovereign state, the Russian Federation has an international legal personality, i.e. it is a full-fledged member of the present-day international community⁴³ (here, what it involves is a global political system, the elements of which are states⁴⁴), may freely and independently become a member of international organizations, unions, sign or join international treaties and agreements, individually solve the problems of war and peace, and so on.

⁴⁰ «Founding-Fathers» of the American Constitution considered the principle of separation of powers as a principal guarantee, which is in opposition to seizure of power and specifies a prerequisite for protecting human rights. For example, see: I. A. Alibastrova, *Fundamental concepts of American constitutionalism* (Moscow, 2001).

⁴¹ G. G. Arutyunyan, *From Constitution to constitutionalism. Ot Konstitutsii do konstitutsionalizma* (Yerevan, publishing house Nzhar 2004).

⁴² Constitution of the Russian Federation (adopted by a nationwide vote on 12.12.1993) (considering amendments, introduced by the RF Laws on amendments to the RF Constitution dated 30.12.2008 N 6-FCL, dated 30.12.2008 N 7-FCL, dated 05.02.2014 N 2-FCL, dated 21.07.2014 N 11-FCL) // *Corpus of legislative acts of the Russian Federation*. 04.08.2014. N 31. art. 4398.

⁴³ Term "international community" began to be used after adoption of UN Charter. Thus, President H. Truman in 1946 declared: "Progress in science, communications, technology united the world into one community, where economic and political health of each member directly depends on economic and political health of every other member" (Quot. as per: *Community, Diversity and new World Order*. New York., 1994), 10.

⁴⁴ G. I. Lukashuk, "Military doctrine of a law-governed state", *International life*, num 3 (1994): 87-92.

The problem of the adequate protection of human rights involves not only an essential role of the principle of sovereign state, but of a central principle of the modern international law, non-interference in the affairs of state. Interference in the affairs of state⁴⁵ is qualified as a gross violation of sovereignty⁴⁶. However, in conditions of globalisation, there is a need to observe the processes of changing the attitude to the “sovereignty” category both in the national constitutional law, and international public law. The changes concern the personal legal status institution, and, mostly, human rights⁴⁷. It should be rightly noted that “In the XXIst century, defence of population and respect for human rights are the principal components of sovereignty and statesmanship, and, hence, sovereignty implies compliance with the obligations towards its own people”⁴⁸. This idea is enshrined in the international and legal acts⁴⁹.

Providing decent life as a principal duty of modern social state

Radical changes occurring in Russia over the past decade have increasingly been concentrating public attention on the problem of priority of common human values, involving, first, undeniable human and civil rights and freedoms.

⁴⁵ Thus, only humanitarian interference was considered an exception, when a state to protect the rights and property of its citizens (sometimes, national and other minorities) who are in the territory of other state, could use force, down to initiating military actions. For more detail please refer to: Gugo Grotsiy, On the law of war and peace. Three books that explain natural law and law of people, and the principles of public law (Moscow, 1956); V. N. Kartashkin, “Relevant problems in the theory and practice of the international humanitarian law”, Bulletin of MSU. Series Pravo, num 3 (2000): 110-114; V. A. Kartashkin, International security and human rights (Moscow: Publ. house of «Novosti» News Agency, 1988); I. I. Lukashuk, Globalisation, state, law, XXIst century (Moscow: Publ. Spark 2000); P. Takha Shamsun, “Human rights and domestic jurisdiction of a state”. Moscow Journal of International Law, num 2 (2003): 58-81; S. V. Chernichenko, Theory of international law. Volume 2 (Moscow, 1999); Human rights. Publ. editor E.A. Lukasheva (Moscow: Publ. house. NORMA, 2003) V.A. Kartashkin, Common Global Home. Human Rights for the 21st Century, Foundation for Responsible Hope: A US-Post Soviet Dialogue. New York; V. Kartashkin, Human Rights and Humanitarian Intervention. Law and Force in the new International Order (1991); T. Farer, An Inquiry into the Legitimacy of Humanitarian Intervention. Law and Force in the new International Order (Boulder, 1991); I. Brownlee, International Law and the Use of Force by States (Oxford, 1963); Law and Force in the new International Order. Edited by Damrosch L. and Sceffer D. (Colorado, 1991) y K. Nicolaidis, “Germany as Europe: How the Constitutional Court unwittingly embraced EU democracy. A Comment on Franz Mayer”, International Journal of Constitutional Law, Vol: 9 num 3 – 4 (2011): 786 - 792.

⁴⁶ V. Y. Volkodav, Relationship between human rights and state sovereignty (Moscow: Publ. MSUH, 2000)

⁴⁷ For more detail please refer to: T. A. Vasilieva, “A concept of sovereignty in conditions of globalisation and European integration”, Constitutional and Municipal law, num 2 (2016): 7-9; E. Engle “The Transformation of the International Legal System: The Post-Westphalian Legal Order”, Quinnipiac Law Review, Vol: 23 num 23 (2004): 23 – 45.

⁴⁸ UNO. General Assembly of Security Council. Sixty third session. Report of the Secretary General “Undertaking a duty to protect”. Retrieved 28.12.2017 from: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N09/206/12/PDF/N0920612.pdf>.

⁴⁹ A concept of «responsibility to protect» was first formulated in clauses 138-140 of the Final document of the World Summit dated 2005 and approved in clause 4 of Resolution 1674 (2006) of UN Security Council.

Social characteristic of a state⁵⁰ was first reflected in the constitutions of a number of the Western Europe countries (Italy, France, FRG), which were adopted after the Second world war.

Nowadays, the idea of social state, based on the socially oriented politics, economics, and law of modern state, became widespread and is enshrined in constitution, and is one of the most essential characteristics of democratic society. Along with that, considerable efforts are required from the state and community to practically implement the ideas and principles of the modern state, enshrined in the Constitution.

It may be inferred from legal books that social state is a state that focuses on social fairness, wealth, and social security of its citizens. It is intended to create such conditions in the country, which would ensure a decent life for everyone.

This definition implies that the role and the value of a state in the area of exercising and assuring social human rights are rather high. Here, it is about the purpose of a social state, which is, actually, a program for assuring and constantly improving a satisfactory level of the social status of a person and a citizen. The major part of the program shall contain the directions and principles of the corresponding economic and social policy of a state, which imply the system of constitutional guarantees and freedoms of an individual, and rigorous fulfilment of the respective obligations of a state towards the people. Based on it, modern social state shall not only form the system of these guarantees, but take on the role of the main guarantor of its declared constitutional rights and freedoms. Here, a question arises, if they can be a foundation for exercising major human rights, when the person applied to the court with the claim to the state authorities⁵¹.

In the Constitution, Russia, as a social state, shall first declare a long list of social civil rights, including the rights to protect family, motherhood, and childhood (article 38); old-

⁵⁰ The concept “social state” came into common use after 1949: it is during that period a term “sozialer Rechtsstaat” was included in the General Law of the Federal Republic of Germany, which is translated word-by-word from German language as «social law-governed state». Word combinations «welfare state», «the Welfare State» (translation of the English term) have approximately the same meaning (M. Lepikhov, “Social state and legal regulation of social protection of the population”, Online version of “Law and life”, num 31 (2000)

⁵¹ There are such social guarantees, implementation of which enables everyone to exercise and defend their rights and freedoms. In particular, this is a potential free judicial defence for the persons, who have no sufficient means of living. This conclusion is confirmed by the decision made by the European court on Human rights (Airey v. Ireland, Judgment of 9 October 1979) “On the case of husband’s beating”. Thus, Ioanna Airey was from the very modest family. She didn’t have a joint household with the husband from the moment, when the latter was convicted of violence towards his wife however, since the fact that the persons are married, suggested that they should have a joint household, then Mrs. Airey could not prevent her husband from coming back. Her efforts to register by a court order the fact of separate residence didn’t produce any positive result, since the application for divorce could have been submitted only to the Superior Court of Dublin, and with no lawyer’s support she would not succeed. On this case, the Court adhered to the position that, according to article 6 of the European Convention on Human rights, the state was obliged to not only provide for the potential judicial defence of Mrs. Airey’s rights, but to help in eliminating the reasons (poverty, in this case), which hampered exercising this right. Thus, Ireland was recognized as the country, infringing the Convention for failure to effectively protect in court a person with no sufficient means for living. For more details, please refer to: European Court of Human rights. Selected cases. In 2 volumes. Volume 1. Chairman of editorial board, editor – Doctor of Juridical sciences, Professor V.A. Tumanov (Moscow: Publ. NORMA, 2001).

age welfare, provision in case of disease, physical disability, loss of breadwinner, to bring up children, and the rights for other cases, provided for by the law (part 1 of article 39); right to housing (article 40); right to health protection and medical assistance (article 41), right to education (article 43) and other social support guarantees. However, constitutional consolidation of social human and civil rights constitute one thing, their implementation – the other. To putting social rights into practice it is necessary to create economic, political, social, and other conditions for their implementation. Here, the obligation of a social state to create economic prerequisites is an indispensable condition for implementing any human and civil rights⁵². At the same time, social human rights differ from the civil (personal) and political rights in terms of the role and value of a state, when it comes to their assurance and protection in a general sense. Personal and political human rights shall not be awarded by a state; they are given to an individual by birth. State shall ensure their implementation and refrain from interference⁵³. Social rights have different nature. Their concept and practical implementation throughout the entire system of human rights are more vulnerable and require permanent and goal-oriented concern of the state. Therefore, the attribute “social state” enshrined in the Russian Federation Constitution (article 7) is not a formal norm, it implies a real determination of creating respective structures, which are based on the law, that is aimed at providing a decent life for each citizen. Hence, to put the norms, enshrined in the Constitution, into practice, Russia is trying to properly regulate its activity and to transfer stepwise satisfaction of economic and social needs of its citizens to the legal platform. It is underway in the direction of increasing the minimum size of salary and pensions, implementation of federal programs and projects for overcoming poverty, increasing birth rate, and other measures. Over the last years, in Russia, the legislation has actively been formed, which regulates complex and various issues of social protection of multiple population groups. However, there is no harmony between the requirements of norms of the adopted legal acts and a real state of the people, although there is a stable tendency for effectively solving many social and economic problems and fulfilling social functions of the state. In spite of enormous efforts of state to ensure implementation of social and economic rights of an individual, in Russia, there are still rather many unemployed persons⁵⁴ and, as a result, many persons without means. If in June 2008, in Russia the

⁵² A. V. Zakharov, “Impact of globalisation on the functions of a modern state”, *Juridical World*, num 11 (2016): 46-48; A. V. Lebedev, *Political rights and freedoms of the Russian Federation citizens (constitutional-legal research study. Synopsis of thesis ... Doctor of Juridical sciences (Chelyabinsk, 2003)*; N. V. Putilo, “Social rights of citizens and laws”, *Russian Law Journal*, num 8 (1998): 124-125 y V. Kazantsev, “International standard: work – a guarantee for decent life”, *Russian Justice*, num 3 (2000): 35-37.

⁵³ V. A. Ivanenko, *Social human rights and their consolidation in the Constitutions of states-CIS participants. Synopsis of thesis ... Doctor of Juridical sciences (St. Petersburg, 2000)*.

⁵⁴ Thus, based on the results of the study performed in January 2019, the size of work-force in Russia was 74.9 mln. persons, or 51% of the total population of the country, including 71.2 mln. persons, who were involved in economy, and 3.7 mln. persons with no occupation, but were actively looking for it (according to the methodology of the International Labour Organization, they are classified as the unemployed). In 2018, out of the total workforce, there were 31.9 mln., or 45.8% of regular employees (not taking into account part-time workers) who were not self-employed entrepreneurs. On conditions of spare-time work and by civil law contracts, more 1.3 mln. persons were involved to work in these organizations (in equivalent of full employment). The number of working places, replaced by the payroll workers, part-time workers, or persons, who performed works under civil legal agreements, in organizations (with no self-employed entrepreneurs) in 2018 amounted to 33.2 mln. persons, and it was more than in 2017 by 459 thsd. persons, or by 1.4%. In 2018, the specific weight of working positions of external part-timers in the total amount of the replaced working positions in organizations was 1.6%, of the persons who worked under civil law contracts - 2.5%. See: Official

number of citizens, who have status of the unemployed, amounted to 1331.5 thsd. persons⁵⁵, in June 2018 – 3543thsd. persons⁵⁶. At the same time, poverty in Russia has various specific features: attributes due to territory, age and gender, seasons, number of family members, level of education, availability of more vulnerable groups, and other circumstances. In particular, as per the data of the Federal Labour and employment agency, the number of the unemployed in Russia, registered in the state institutions of the agency in 2017 amounted to 776.0 thsd. persons; level of women employment amounted to 35034thsd.persons; men employment – 37108thsd.⁵⁷ It shouldn't go unnoticed that there are concerns about the fact that, as compared to 2000, the number of unemployed persons with the higher education increased by more than 7% (from 13.3 % to 20.6 %) ⁵⁸. In this regard, Russia, by the volume of state financing of education, considerably reduced gap with the countries with high level of living. Thus, according to the data of the Federal Treasury, in 2017, the expenses for education amounted to 17.1% (in 2007 23.6%) of all the expenses of the Russian Federation consolidated budget for social and cultural events in 2017. At the same time, in 2017, the expenses for applied research in the area of national economics in Russia amounted to 0.41% of GDP (0.2 % in 2007⁵⁹). For comparison, it should be noted that as recently as in 2000, the worldwide average GDP provided to education, was 3.4% and 0.54%, respectively, for the countries with low and average standard of living 3.0 and 0.47%, respectively, for the countries of Europe and Central Asia 5.0 and 0.92%, and for developed countries 5.0 and 0.91%⁶⁰.

At the same time, over the past years social and demographic parameters of Russia show that the number of persons who have been born in the country⁶¹, students of general education institutions⁶², number of hospital beds⁶³, and number of doctors⁶⁴ increases.

website of the Federal State Statistics Service of the Russian Federation. Retrieved 27.02.2019 from: http://www.gks.ru/wps/wcm/connect/rosstat_main/rosstat/ru/statistics/wages/labour_force/#

⁵⁵ Official website of the Federal State Statistics Service of the Russian Federation. Retrieved 15.03.2010 from: http://www.gks.ru/scripts/db_inet/dbinet.cgi

⁵⁶ Official website of the Federal State Statistics Service of the Russian Federation. Retrieved 27.02.2019 from: http://www.gks.ru/bgd/free/B04_03/IssWWW.exe/Stg/d01/165.htm

⁵⁷ Official website of the Federal State Statistics Service of the Russian Federation. Retrieved 28.02.2019 from: http://www.gks.ru/bgd/regl/b18_13/Main.htm

⁵⁸ Official website of the Federal State Statistics Service of the Russian Federation. Retrieved 28.02.2019 from: http://www.gks.ru/bgd/regl/b18_13/Main.htm

⁵⁹ Official website of the Federal State Statistics Service of the Russian Federation. Retrieved 15.03.2010 from: http://www.gks.ru/bgd/regl/b08_11/IssWWW.exe/Stg/d03/23-01.htm

⁶⁰ Higher Education in Developing Countries. Peril and Promise (World Bank, 2000)

⁶¹ Hence, it should be noted that within recent years in the Russian Federation there is a tendency for the number of babies born to increase. Thus, if the number of babies, born over 2000, was 1266800, then in 2017– 1690307. Respectively, an increase over this period amounted to 423507 babies. Unfortunately, there is no any natural increase; on the contrary, there is a natural loss (-0.9). See: Official website of the Federal State Statistics Service of the Russian Federation. Retrieved 27.02.2019 from: http://www.gks.ru/bgd/regl/b18_13/Main.htm

⁶² Thus, as per the data of the Federal State Statistics Service, in 2017 the number of students of full-time general educational institutions in the Russian Federation was 15705.9 thsd. of persons.

⁶³ Beginning from 1990, the number of hospital beds has constantly been reduced. In particular, if in 1995 in Russia the number of hospital beds was 1850.5 thsd., in 2007 this number amounted to 1522.1 thsd. Retrieved 16.03.2010 from: http://www.gks.ru/free_doc/2008/zdrav/82.htm. In 2017 the number of hospital beds was 1182.7. Official website of the Federal State Statistics Service of the Russian Federation. Retrieved 28.02.2019 from: http://www.gks.ru/bgd/regl/b18_13/Main.htm

⁶⁴ Thus, if the number of doctors of all specialities in 2000 in Russia was 680.2 thsd. persons; 2005. – 690.3 persons; 2006 – 702.2 persons; 2007 – 707.3 persons; in 2017– 697.1 persons. Availability

Besides the above-mentioned, there are other problems in the sphere of the Russian Federation social policy, which, in conditions of intense fighting for work, resources, material wealth, and other assets, need to be urgently solved. It follows from the constitutional obligation of the Russian state (article 7): to provide an individual with a decent life and free involvement.

Conclusion

Intense globalisation processes make constitutional right ever more politicized. States are doing whatever possible to preserve social, cultural, spiritual identity, ideological independence, protect their national-sovereign rights and interests.

Countries with various levels of economic development or historical traditions, cultural origins, legal systems have different concepts on human rights, freedoms, duties, and guarantee and implement them in practice in diverse ways. However, human rights and freedoms as an essential characteristic of the modern world, shall not be under the power of undemocratic regimes. Equal attention shall be given to the rights and freedoms, on the one hand, and to the duties and responsibilities, on the other hand. This is a balanced and effective approach to hold a cross-cultural global dialogue. Moral power of legal protection of consciousness implies its integrated appeal to respect personal dignity, rights and freedoms as opposed to authoritative power of a state.

Rights, freedoms, and duties of a person and a citizen serve as an indispensable and essential attribute of a modern law-governed democratic state. Considering the essence of the mission of a modern constitutional state in terms of common human values, it may be supposed that a legal personal status acquires its own and independent legal meaning and potential, i.e. it becomes a foundation and a criterion for normal functioning of a state. In other words, human and civil rights and freedoms constitute the basis and objective of existence of a law-governed state. In terms of protecting common human values, a law-governed state may be characterized as an embodiment of the state authority based on faith and trust of citizens. In the complex conditions of contemporary globalisation processes, for the purposes of a social state it is necessary to create a stable and developing economy, design effective social programs, organize their continuous financing (through, in particular, promoting charity, overcoming poverty, developing education, science, and culture), provide for reasonable state, regional, and local budgets, tax system, take an active part in the process of pricing, approach each problem in terms of law and morals⁶⁵, cultivate proper attitude to globalisation and other changes that occur in the international community. Solving the problem of satisfying national interest, preserving prestige and a standard of life of everyone depends on the primary social responsibility of each person, and, without any doubt, active role of a modern state. Most of all, it is necessary to solve functional problems that are simultaneously political, scientific, organizational, legal, and so on. The most essential task here is to enhance the effectiveness of activity of the state machinery and local self-government authorities.

of doctors in Russia per 10000 persons in 2007 was 49.8 persons (in 2017– 47.5); availability of nursing staff per 10000 persons in 2007- 108.6 persons (in 2017– 103.8 persons). // See: *ib.*

⁶⁵ The capabilities of a state in undertaking social reforms are limited. Some social problems are rather complex to be solved through law, the others are rather subtle and intangible, the thirds, in most cases, depend on some moral (P.I. Novgorodtsev, *Crisis in the modern legal consciousness. Anthology of the world legal thought.* V. V. Russia, end of the XIX-XXth century (Moscow, 1999).

In conditions of modern globalisation in Russia, defence of human and civil rights and freedoms is a direction that requires vital and urgent responding since the state, which proclaimed itself as law-governed, democratic, and social, shall provide a decent life to an individual, its free and continuous evolvement, personal inviolability, supremacy of law, and defence of human rights.

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