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**SOCIAL CONTROL AS A GUARANTEE OF THE LEGALITY AND LEGITIMACY
OF THE FORMATION OF STATE POWER**

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Abstract

The article considers the possibilities of applying social control in order to ensure the legality and legitimacy of the formation of state power. The analysis of foreign experience in the application of control public powers in foreign countries is given; the role of election commissions and the possibilities of socialcontrol in Russia are considered. The problems of the work of election commissions and other bodies, whose powers are related to the electoral process, building the confidence of the electorate and increasing active voters in various countries, including the USA, Great Britain, Germany, France, China, are identified. Various measures aimed at improving the transparency of the electoral process and confidence in the electoral institution undertaken in foreign countries are evaluated. It was revealed that in the Russian Federation, despite the use of the institution of observers, certain legal institutions remain unclaimed. Based on an analysis of the practice and possibilities of using various forms of socialcontrol in the electoral process, proposals are made that contribute to increasing the confidence of citizens in the election institution.

Keywords

State power – Socialcontrol – Electoral process – Legality – Legitimacy

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The problem of ensuring the legitimacy of state power and its formation is becoming increasingly relevant. This problem is directly related to the electoral process and the confidence of voters in it. Election commissions included in the list of subjects – state bodies that do not belong to any of the branches of state power, but carry out certain functions that are significant from the point of view of ensuring the legitimacy and legitimacy of state power, exercise control powers in the election process. However, the powers of such bodies are various from country to country.

In some countries, there is a tendency to end the period of active intervention of election commissions in social political life and their gradual transformation into bodies organizing elections. Researchers believe that this is not a negative trend for the electoral commission system as a whole. France does not have a single centralized system of permanent electoral bodies; the organization of elections is under the jurisdiction of the Ministry of the Interior¹. Thus, control powers, as necessary, are transferred to other bodies. In other countries, the control powers of election commissions are substantial. So, it is possible to control the appearance of voters at the polls. Some countries provide for a mandatory vote (Austria, Belgium, Bulgaria, Brazil, Greece, Denmark, Italy, the Netherlands, Turkey, etc.).

In Germany, in 1990, the turnout in local elections was close to 70%, then it was about 50% (if the mayor is held separately from the municipal council, turnout is usually even lower). The turnout in the United States is considered low (about 1/3 of registered voters usually participate in primaries). Even in presidential elections, more than 40% of voters are usually absent. Voter turnout remains low in municipal elections as well, about 30%². Moreover, the opposite point of view is also found in the literature, according to which such a turnout is considered high³. A special role in ensuring the effectiveness of campaigning is played by the media, especially electronic.

In the USA there is no state electronic media; airtime is provided only on a paid basis. In accordance with the Communications Act of 1934, the holder of a broadcasting license must provide equal opportunities to use the broadcasting station to all candidates. The 1971 Federal Election Campaigns Act contains a requirement that the candidates should not be charged different fees for using the same newspaper and magazine space. American researchers note the negative role of midterm elections in connection with a change in voters' determination to vote, as well as manifestations of a decrease in party loyalty in the subsequent election campaign, which arises in connection with this cynicism of voters after covering the results of the vote with the electorate, who was disappointed in the correctness of their choice⁴. American scientists P. Taagperoy and M.S. Sugart also noted other “pathologies” of the American electoral system⁵, which significantly reduce the confidence of voters.

¹ A. A. Makartsev, “Election commissions as legal entities: problems of legal status”, Russian Law Journal num 2 (2011): 104-110.

² A. I. Cherkasov, “Local governance in foreign countries: reforms and development trends”, Russian Journal of Law num 1 (2013): 97-105.

³ V. F. Kolomytsev, “Democracy is a civil society and the rule of law”, Citizen and Law num 4 (2008): 3-5.

⁴ G. Campbell, *The Presidential Pulse of Congressional Elections* (Lexington: University Press of Kentucky, 1993).

⁵ R. Taagpera y M. S. Shugart, *Seats and Votes: The Effects and Determinants of Electoral Systems* (New Haven: Yale University Press, 1989).

Reforms of UK suffrage related to lowering the turnout threshold and introducing various progressive voting methods (Internet-, SMS-voting) reflected the legislator's desire to overcome the passivity of voters⁶. Elections in the United Kingdom are considered valid if at least one voter arrives at the polling station. Such cases have occurred in practice, in particular, during the elections to local authorities, when the nominated candidate himself came to the polls⁷. However, overcoming political absenteeism should be carried out not only by legal, but also by political and other measures that contribute to the formation of an appropriate level of legal awareness and social responsibility of the voter, which is especially important for modern Britain in the light of other political reforms.

Democratic principles are inherent in China, combined with the ideological guidelines of the state, which generally contributes to the legitimization of state power in China. Unlike the Western understanding of the content of the principles of universality and equality of suffrage, China provides priority in the electoral process of individual groups of the population. The originality is also manifested in the application of restrictions on electoral rights for crimes not related to violation of election law. The multi-stage elections in China, the direct relationship between the expression of will in local elections and the formation of the highest public authority contribute to the social responsibility of voters, overcoming political absenteeism and the appearance of changing preferences of voters, which is relevant for countries of continental law and the English-American legal system.

A particular problem is the violation of corruption legislation by deputies, which significantly reduces confidence in the institution of elections. The facts of corruption revealed in France in the late 1990s necessitated structural reforms, changes in the financing of political parties and election campaigns, as well as administrative procedures. In this regard, in 1995, the Commission on the Civil Service Deontology was created in France, which is designed to assess the compatibility of the future work of a public servant with his functions in the civil service⁸.

As you can see, the measures to prevent and suppress illegal actions in the electoral process used in foreign countries are different and not always applicable for other states. In our opinion, along with the qualitative implementation of financial control in the electoral process, it is necessary to increase individual confidence in the institution of elections at all stages of the electoral process. In the Russian legal system, elections are free. Control and monitoring of the performance of electoral actions during the preparation and conduct of elections in Russia is carried out by election commissions, candidates, public organizations, election associations and their authorized representatives, members of election commissions with deliberative vote and observers. The media also monitor the progress of the election campaign. Observers for candidates, public and electoral associations exercise social control over the observance of electoral legislation during the voting process, when summing up the election results⁹.

⁶ Election. National Results after 650 of 650. 2010. Retrieved from: <http://news.bbc.co.uk/2/shared/election2010/results/>

⁷ The Official Yearbook of the United Kingdom of Great Britain and Northern Ireland: A National Statistics publication (London: Office for National Statistics, 2003).

⁸ B. N. Komakhin, "Anti-corruption in the public service system of European countries", International public and private law num 2 (2013): 29-33.

⁹ N. I. Vorobiev y V. V. Nikulin, Electoral law and the electoral process in the Russian Federation: textbook allowance (Tambov: Publishing house of TSTU, 2005).

Moreover, we can conclude that the main, leading role of election commissions in the implementation of control over the conduct of elections in Russia.

Participation in election campaigns is a reliable indicator of political activity or passivity of the population, its attitude to the current government¹⁰. V.E. Chirkin points out that the basis of rational legitimation is not “promises, not the image of a benign and wise ruler, often not even fair laws, but the practical work of public authorities for the good of the country, its population”¹¹. Elections designed to reflect the diverse interests of the population. The stages of the election process, measures of responsibility for violations of election laws, the legal status of deputies and sole public authorities, the competence of election commissions and other authorized bodies, the procedure for protecting election rights are determined by the constitutional and legal regulation of specific legal relations and their development, which, in turn, affects to legitimize state power. At the same time, the legitimization of state power depends on the level of citizens' legal awareness, the degree of influence of their changing preferences, absenteeism, and other factors that are not only formed under the influence of political, social economic factors, but also depend on the legal regulation of the electoral law institutions¹².

In foreign countries, various measures are being taken to increase the transparency of the electoral process and confidence in the institution of elections. The Russian Federation is also no exception, in particular, the introduction of video broadcasting of the electoral process in Russia contributed to this.

We agree with the opinion that the dynamics of society of the XXI century requires a quick reaction to the changes taking place in the country, as well as a reduction of social conflicts through the best coordination of the diverse interests of social communities, through compromise. For this, it must be ensured that the population is the leading subject of the political process, which has every right to set or adjust the vector of political development of the country. Moreover, as K.A. Katusheva notes, the participatory activities of citizens, including young people, in a legal, “conventional” framework, are acquiring a trend towards a decrease, in turn, “unconventional forms” of political participation are increasingly finding a reason to manifest themselves. This situation indicates a crisis of political participation associated with the inefficient functioning of existing institutions of the political system: the party system, the electoral system (election system), etc. Not getting the opportunity to convey their demands, interests and needs in the form appropriate to the law, the population seeks to do this with the help of illegal methods or ignores the possibility of their expression of will. The transformation of legal methods of translating a public request into illegal or passive is connected, first of all, with the fact that the legal mechanisms and institutions of this broadcast have disappeared or ceased to operate effectively¹³.

Moreover, various forms of civic participation, including protest, act as a feedback mechanism. In this way, realizing mutual interests and understanding on key issues of

¹⁰ L. G. Berlyavsky, “Foreign suffrage: a review of research”, State power and local government num 2 (2013): 38-41.

¹¹ V. E. Chirkin, Fundamentals of state power: monograph (Moscow: Yurist, 1996).

¹² Yu. G. Fedotova, Election systems of foreign countries: a training manual (Moscow: INFRA-M, 2018).

¹³ K. A. Katusheva, “Trends in the political participation of youth in Russia: political absenteeism, autonomous and mobilized participation”, Electronic Scientific Journal “GosReg” num 1 (2012): 1-7. Retrieved from: http://gosreg.amchs.ru/pdf/files/1number/articles/Katusheva_article.pdf

social political and economic life, we can consolidate society and ensure the development of the country. The identification of tension points, actors and a repertoire of actions at the regional level is necessary to comprehend the resource possibilities of this kind of social practices for the tasks of good governance, to overcome alienation between the state and society¹⁴. Political actions, acts, measures to a large extent neutralize these problems of political absenteeism and legal nihilism. However, without proper legal regulation of the participation of citizens in the electoral process from the point of view of the need to ensure their legality, given the underestimation of the role of various forms of civil society participation in this process, these problems will only intensify.

Candidates, lists of candidates, their proxies are not entitled to engage in charity work, they are prohibited from applying for financial assistance or services to voters. These legal norms are applied in practice. Transparency of elections and ensuring equal opportunities for candidates as a result of the formation of their election funds, from which expenses are made according to the same rules, can only be achieved with tight control over financial flows at all stages of the election process. As you can see, the measures to prevent and combat illegal actions in the electoral process used in foreign countries are different and unequally effective¹⁵. Along with the qualitative implementation of financial control, it is necessary to increase individual confidence in the institution of elections at all stages of the electoral process.

For example, in the UK, Internet users who discover material that they believe is capable of inciting hatred, or any other material with illegal content, are entitled to report this to a special regulatory body the Internet Watch Foundation, a non-governmental organization¹⁶. Given that the participation of citizens in monitoring the dissemination and objectivity of provocative, biased information can significantly increase the degree of its reliability, the use of citizen participation in resolving these issues is becoming more and more popular. The implementation of social control in the form of the activities of a public inspector to solve the tasks of verifying the accuracy of information and refuting false information is consistent with the generally recognized goals of social control.

It is necessary to increase the participation of citizens in countering the criminalization of state power, including in elections. Despite the use of observer institutions, individual legal institutions remain unclaimed. Institutions of social control, such as social inspectors, social control groups can become effective tools for identifying and suppressing violations of election campaigning, the procedure for financing elections, and provocations of an extremist nature, since such forms of social control not only help to respond to local violations at the local level, but can increase the level of legal and political culture of citizens, reduce the level of political absenteeism.

Citizens should be actively involved in the conduct of elections. The forms of social control that are not implemented at present have their advantages compared with the forms of state control due to the fact that they allow responding to offenses promptly, in addition, the awareness of the population of a particular polling station about the work of

¹⁴ A. P. Konyakhina, "Civil activity in the south of the Russian Far East (1980-1990s)", *Russia and Asia-Pacific* num 4 (2013): 113-127.

¹⁵ Yu. G. Fedotova, "Supervisory powers of election commissions in the security mechanism of the Russian Federation", *State power and local self-government* num 2 (2015): 33-38.

¹⁶ Z. M. Beshukova, "Countering Extremism in the UK. National Security", *Nota bene* Vol: 6 num 35 (2014): 973-983.

the relevant public representatives and the level of trust in them are important. It is the citizens, protecting their rights, who are able to assess the legitimacy of the campaign, as well as provide information to state control bodies on the facts of abuse by candidates and other persons whose activities contribute to inciting hatred, social conflicts regarding the electorate.

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