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STATE POWER AS A FREE WILL

It is well known that states are the subjects of international law.

A state represents a political form of the organization of government which is characterized by sovereign power, political and public character, a system of specially created organs exercising political, ideological and economic management of society on a defined territory.

The problem of power has always been the most interesting and mysterious issue and took an important place in the history of political thought and modern political theory.

Power is considered as a relationship, as the exercise of control by one person over another, as power over.

Power is a capacity to make formal decisions, in some way binding upon others (made by government ministers in relation to the whole society).

Power is the ability to get someone to do what they would not otherwise have done. It can be the ability to influence the decision-making; it can take the form of controlling people's thoughts.

Power takes the key position in politics.

Hegel defined state power as a "general will" for the benefit of civil society.

M. Weber considered power as a possibility of an individual to exercise his will against the resistance of other regardless of the reason for this opportunity.

According to psychological concept (Z. Freud, K. Jung) power is a behavior of real individuals.

According to Marxist concept, power has class nature.

Power as decision-making means governing the distribution of benefits in conflict situations (conflict concept of power).

Up to social contract theory, people surrender their sovereignty to the state in exchange for protection of their lives and property and, at a higher level, provision of an adequate standard of living.

And all these theories, as well as others, are right and have a place to be, they show different aspects of state power.

Agreeing with all these theories we think that state power is a power of social nature, an organized and sovereign power, expressing and realizing the will of the governors as a general obligatory will.

Speaking of will, we should mention that this concept has many interpretations. One of them says will is the ability to choose among different possibilities and it contains thoughts, i.e. consideration of motives and the decision itself which causes acting.

Free will is a freedom of desire, a freedom to choose one's behavior and a lack of coercion. It represents a free choice of a person (individual or legal entity) Choice is understood in connection of the decision-making process and the objectivation of the result of such a process. Choice is considered

through the categories of «will» and «freedom». Freedom of human will expresses an active, changing role of a human as for determining obstacles, individually unrepeatable expression of objective reasons in human activity. Choice is a mental, consciously-willed activity of a subject to determine his behavior in an option of a certain sphere and an objectivation of its results in subject's action.

The right to choose generates from free will. Based on free will, the right to choose is the main side of a social (including legal) regulation of people's behavior. We should mention that except individual the world of law is dead. Only a human (an individual) is a source and holder of all law reality. And this reality is mostly a result of a choice, of the realization of the right to choose.

Choice shows itself in a process of legal norms realization, during connection of a state will with some subjects' will, including interactions of a state with other subjects of law.

Subject of law is a multidimensional phenomenon. Legal will is one of it's aspects.

The definition of a state through the prism of international law emphasizes that a state is a sovereign will and respectively states' will coordination is the international law method. A state represents a will of nation.

The system of international law itself is formed from institutes and branches consisting of rules of behavior (rules of law) which are obligatory for states and other international public organs. All the shades of norms are of public and mostly political character. They are being developed and objectified as the sources of law by the coordination of states' will, when each subject is independent and all of them have equal rights.

However are they really free and independent, can they really be characterized as a free will? This is a question to think about.

We have mentioned above the definition of will and the realization of will through a choice, so the next important question is: who makes this choice for a state guided by a set of coordinates?

The subject of law is a legal will. It is the will that allows to single the subject out the object of law and other legal phenomena. There is no subject of law without will.

Although international law considers only a state as its subject and not state organs and some officials, but the choice is eventually made by these officials, individuals, and free will of a state is realized by this choice in different spheres.

We should remember that only a human is a source of all legal reality. A state is a general will including particular wills of its citizens, a state is not a single interest of citizens but their compatibility with each other. In turn, progressive global development and the increase of prosperity and welfare of the mankind are the most important tasks of international community.

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Key words: will, state, power, legal will, right to choose, choice, subject of law, international law.