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THE "AXIOLOGY" OF NATIONAL CONSTITUTIONS IN THE CONTEXT OF INTERNATIONAL TURBULENCE

Challenges of the time and the role of law in overcoming them

D. S. Likhachov starts his great book "Man in the Literature of Ancient Rus" with a statement: "A human being is always the central object of literary creation."[2] Anthropocentrism of the outstanding scholar and humanist can be safely applied to all phenomena of the world civilization, and law, among its other achievements.

Now that we are witnessing a profound transformation of civilization – the unprecedented globalization of the modern world, computerization of information flows, technologization and digitalization of human existence itself – the question is, Has this existence become more harmonious and secure? Against the backdrop of man-made and natural disasters, pandemics, and rising international tensions, the answer does not seem very optimistic. And once again, we are looking up to the tried and tested means of harmonizing social relations – the law.

The modern man, whether he is aware of it or not, lives in a multidimensional legal space, consisting of international, regional, national, and local levels. Each level of the legal corpus is dynamic and seeks to provide answers to the challenges of our time.

International law: from fragmentation to crisis

The processes of diversification and expansion of international law have led to its fragmentation, which has manifested itself in the growth of specialized norms (such as the *lex specialis* norms of case law) and regulatory systems (such as "autonomous" EU law) that are not clearly interrelated between each other and are not related to the basic principles of international law. This phenomenon is rightly seen as a threat to the integrity of international law.

From the 1990s to the present day, there have been more disturbing symptoms signaling a decline in the universality of international law. Initially, attempts were made to secure the supremacy of international law over state policy. These attempts have failed. At the same time, there is a clearer trend to transform international law into a unipolar normative system governed from a single center (or, more precisely, from a leading state). The use of military force for so-called humanitarian purposes, especially bypassing the UN Security Council, has become a symbol of rejection of the fundamental ideas of international law by a group of the world's leading states. Downplaying state sovereignty and near-total disregard for the principle of non-interference in domestic affairs are clear signs that international law has been replaced by a surrogate: global (or world) law. Apparently, international law has not only entered a period of serious crisis, but has also approached the collapse of its model formed on the basis of the UN Charter.

What can be the response of states unwilling to put up with the imposed "global quasi-order"? The main task today is to revive the categorical imperative of the conciliatory nature of international law, which has at all times been the law of consent. We must ensure that international relations are based only on equal rights and respect for the sovereignty of states. It is becoming increasingly clear that a multipolar system is not only desirable but also necessary for the revival of international law based on the UN Charter, and for overcoming its current crisis state.

The existing theory of international law, based primarily on the UN Charter and relevant international treaties, stipulates that the states should incorporate international norms into national law in various ways.[3]

Therefore, in many countries there is an ongoing debate about the relationship between international and domestic law, including the supremacy of national constitutions in the law of nations. Many constitutions assert, in one form or another, their supremacy over an international treaty or, more generally, over international law in general.

The constitutional practice of most developed Western states is based on the supremacy of the constitution over international law. Certain intricacies in the constitutional regulation of this issue may occur in states that belong to the common law system. Such provisions found in them are more often formulated in the decisions of the highest courts. For example, U.S. Supreme Court decisions make clear that the Constitution takes precedence over federally negotiated treaties and that the rule of the Constitution take precedence over the international treaty provisions.[4]

In France, an international treaty or agreement containing provisions contrary to the Constitution can only be concluded if the Constitution is revised accordingly. At the

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[2] *Лихачев Д. С.* Человек в литературе Древней Руси. СПб. : Азбука : Азбука-Аттикус, 2015. С. 5.

[3] *Лазарев В. В.* Философские основы имплементационной деятельности // Журнал российского права. 2020. № 9. С. 5–18.

[4] See in more detail: Конституция Российской Федерации: от образа будущего к реальности (к 20-летию Основного закона России) / под ред. Т. Я. Хабриевой. М. : Юриспруденция, 2013. С. 528–529.

same time, the French Council of State, in a Decision of 30 October 1998, assumed a very clear stance that "the supremacy of the rules of international law enshrined in Article 55 of the French Constitution does not apply in the domestic legal order to the rules of constitutional law."[1] In the Federal Republic of Germany, international treaties have the status of federal law and must comply with the Constitution. If they contradict it, they remain valid under international law, but cannot be applied in the domestic sphere without an amendment to the Basic Law.

Constitutions in other regions of the world also contain numerous examples of legislative consolidation of supremacy of the Basic Law, sometimes in its original form. For instance, the Constitution of Mexico provides that the laws of the National Congress issued on its basis, along with all treaties aligned to it, constitute the supreme law of the federation. The Mexican Supreme Court additionally concluded that international treaties take precedence over federal and state laws, but are inferior to the Constitution. A similar formula is enshrined in the 2014 Tunisian Constitution: "International agreements approved and ratified by the Parliament take precedence over laws, but not over the Constitution."[2]

This raises another question concerning the relationship between the national legal system and an international treaty in which the State ceases to participate, and its status. At a first glance, it's all easy: no treaty no problem, that is, a treaty that has ceased to be valid in the territory of Russia will no longer be regarded as part of its legal system, and it will not be subject to the provisions of Part 4 of Article 15 of the country's Constitution. Federal law provides that termination of an international treaty by the Russian Federation releases it from any obligation to perform the treaty in the future and does not affect the rights, obligations or legal position of the Russian Federation that arose as a result of performing the treaty prior to its termination. However, the nature and content of the treaty, as well as the associated circumstances, may affect the process of termination of international obligations.

Today's reality demonstrates relevance of the issue of termination of a number of international treaties on the territory of a state to international and constitutional law. And there is a fresh instance: forced withdrawal of Russia from the Council of Europe, announced on March 15, 2022, did not prevent from completing the procedure of termination of membership in this international organization on January 1, 2023. In this case, Russia could denounce the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) as of September 15, 2022. However, the resolution of the Committee of Ministers of the Council of Europe of March 16, 2022 of the same date terminated Russia's membership in the international organization, which led to the automatic termination of all international treaties open only to member states.

An unjustified exception was made for the ECHR, though, whose validity and, consequently, jurisdiction of the European Court of Human Rights (ECtHR) was extended for Russia by another six months – until September 16, 2022. Russia (through the draft Federal Law "On termination of international treaties of the Council of Europe and invalidation of certain provisions of legislative acts of the Russian Federation") decided to terminate the ECHR, as well as other twenty treaties, from March 16, 2022. Thus, ECtHR judgments on appeals raised after March 16 this year will not be reviewed in Russia.

The withdrawal from the Council of Europe and the denunciation of 21 documents (the Charter, the General Agreement on Privileges and Immunities of the Council, its protocols, the ECHR and its ten protocols, as well as three conventions) entail not only the adoption of the relevant law, but also the abrogation of nine federal laws (ratification), amendments to nine codes, two federal laws and four presidential decrees.

Thus, only after all the procedures for changing Russian legislation in connection with Russia's withdrawal from the Council of Europe have been duly carried out, it will be possible to say that the relevant treaties are not an integral part of the Russian legal system.

There is an opinion that, in addition to resolving the legal and technical issues of termination of the Council of Europe treaties, it is necessary to generally deal with the legacy of its values, "echoes" of which will linger in the Russian legal system. Apparently, we should not "eradicate" from the legal system of the state the entire catalog of values enshrined not only in the Council of Europe conventions, but also in other international treaties and acts, which remain valid for Russia. So, we should preserve the value achievements with a broader horizon of effect (the UN, CIS, SCO, BRICS, etc.) as imperatives of common international law, without reference to specific mechanisms of their previous implementation, and as generally recognized principles and norms of international law, taking into account and building on the Constitution of the country in the first place.[3]

The Law of Integration Associations: Political and Economic Imperatives

Common international law is in crisis and in search for answers to today's challenges, but not all levels of the international legal corpus are in the same state. International integration law, sometimes referred to as supranational law, is becoming an object of close attention not only of legal science, but also of states. The carrier and "legislator" of this supranational law are regional international organizations, in some cases distinguished by their integrative nature, i.e. as having supranational powers. Unlike universal international organizations, in which most states of the world participate, and which have a rather complex and inefficient decision-making mechanism, regional international organizations generally have a more compact arrangement and

[1] See: *Маклаков В. В.* Конституционный контроль и защита прав и свобод человека в современной Франции. М. : ИНИОН РАН, 2015.

[2] The Tunisian constitution was reviewed by the Venice Commission of the Council of Europe. See: CDL-AD (2013)032 Opinion on the Final Draft Constitution of the Republic of Tunisia. Adopted by the Venice Commission at its 96th Plenary Session (Venice, 11–12 October 2013). Characteristically, the Commission made no comment regarding the provision on the supremacy of the Constitution in the legal system of the country.

[3] See in more detail: *Хабриева Т. Я.* Конституционная реформа в России: в поисках национальной идентичности // Вестник Российской академии наук. 2020. Т. 90, № 5. С. 403–414 ; *Eadem.* Конституционная реформа в России в координатах универсального и национального // Журнал зарубежного законодательства и сравнительного правоведения. 2021. Т. 17, № 1. С. 6–12 ; *Хабриева Т. Я., Клишас А. А.* Тематический комментарий к Закону Российской Федерации о поправке к Конституции Российской Федерации от 14 марта 2020 г. № 1-ФКЗ «О совершенствовании регулирования отдельных вопросов организации и функционирования публичной власти». М. : Норма, 2020 ; *Морозов А. Н., Каширкина А. А.* Конституционные преобразования в Российской Федерации и взаимодействие международного и внутригосударственного права: преемственность и новизна // Журнал российского права. 2022. Т. 26, № 1. С. 120–141.

more modern and flexible institutional mechanisms helping them quickly achieve their goals. However, there is an emerging trend which has yet to be appreciated: formation of some regional international enclaves of a closed type, which include the European Union and (as increasingly evident recently) the Council of Europe.

Russia acts as an advocate of equitable and fair international legal regionalism, which is manifested in the strategies of its participation in the Eurasian Economic Union (EAEU), CIS, SCO, and BRICS. International integration associations (EAEU, the Union State of Russia and Belarus) are important tools for ensuring international and regional economic stability, overcoming global economic crises and minimizing their consequences. They produce a tangible impact on the economic growth of member states, provided that the interstate integration association itself functions effectively. It's because, as a rule, within the framework of an interstate association there is a special international legal and economic space established through international treaties, which should remain a space of security and stability in times of global crises thanks to the arsenal of closer cooperation on the basis of mutual support, laid down in international legal acts.[1]

In our opinion, progressive development of integration requires states to gradually build up integration interaction, that is, to deepen and expand areas of cooperation by including new parameters and formats in the matrix of legal regulation.[2] Of course, such parameters and formats of integration interaction between states within an international association or international organization are impossible without an international legal component and, ultimately, without the agreement of states on new areas and forms of cooperation within an interstate integration association.

At the regional level, there is a very active build-up of a corpus of the so-called integration law, which competes and sometimes conflicts with the norms of international law. So, in some of its judgments, the Court of Justice of the European Union has explicitly upheld the priority of "community law" over international law.[3] However, this concept cannot be supported unequivocally, because this approach opens the way for the abuse of law (even if integration law) to the detriment of the interests of third states and other international organizations. The EAEU, for example, takes the opposite position, consolidating the commitment of member states and the Union to the purposes and principles of the UN Charter, as well as other generally recognized principles and norms of international law, in the preamble of its founding treaty.

At the same time, against the background of deformation of the international legal order and intensification of international and political confrontation, it is essential to preserve the international legal basis for favorable development of global and regional integration.[4] At the same time, it cannot be denied that the current integration agenda reflects aggravation of regionalization, which has replaced globalization in all common world processes.

In general, the phenomenon of regionalization fits into the logic of dialectical processes. It replaces globalization when the latter ceases to follow the ascending line of civilizational development. In this case, regionalization is objectively a certain "alienation" from the achievements of human civilization in the global sense. Besides, the phenomenon of regionalization is a "salvation trajectory" for strained international relations, as it helps avoid confrontation between global players in rigid formats. In one way or another, regionalism can act as a political alternative and an economic platform for the growth of new international cooperation with states that have long been in the shadow of global politics and economics. This fully applies to the phenomenon of regional integration within the framework of the Eurasian Economic Union (EAEU), as well as international cooperation organizations such as the SCO and BRICS, which are not strictly integration associations, but have some of their characteristics.

Maintaining the function of interstate integration associations at the regional level, as well as development of international legal regulation of integration relations in conditions of deformation of the global legal order means that the states have to solve the problem of modernizing legislation and constitutional norms. It is noteworthy that over the past two or three years, all EAEU states have significantly updated both their constitutions and their current legislation.

It can be concluded that the political and economic imperatives encourage many states to look for points of reference in integrative regional associations and in the integration law. It is no coincidence that integration dynamics manifests not only in Europe, but also in the Central and South America, Africa and Southeast Asia.

The Constitution as a haven of social stability

In the conditions of a large-scale global conflict developing in different areas, and the uncertainty of contours of the new world order, the Basic Law of the state – the Constitution – remains the key element of the internal stability of a society. Perhaps legally it is the most reliable pillar. It sets the key vectors of the society's development and lays a solid foundation for the regulators of social relations.

Russia has also adopted the strategic benchmarks of the new paradigm of sovereign value-oriented constitutional development. Until recently, the practice of constitutional amendments has been less radical than in many other countries that have undertaken full-scale constitutional reforms.[5] Constitutional transformations in the Russian Federation took place through spot changes in the Basic Law and unlocking its potential through the legal interpretation activities of the Constitutional Court of the Russian Federation, as well as lawmaking.[6]

[1] See in more detail: *Нарышкин С. Е., Хабриева Т. Я.* К новому парламентскому измерению евразийской интеграции // Журнал российского права. 2012. № 8. С. 5–15 ; *Хабриева Т. Я.* О правовых контурах и координатах евразийской интеграции // Проблемы современной экономики. 2013. № 3 (47). С. 21–23 ; *Тиунов О. И.* Об особенностях развития интеграционных процессов на постсоветском пространстве // Журнал российского права. 2012. № 8 (188). С. 92–98 ; *Курбанов Р. А.* Евразийское право. Теоретические основы. М. : ЮНИТИ : ЮНИТИ-ДАНА, 2015 ; *Он же.* Евразийская интеграция в контексте мировой глобализации: современные тренды и тенденции развития // Вестник экономической безопасности. 2020. № 1. С. 133–141.

[2] *Каширкина А. А.* Евразийский экономический союз: расширение границ и правовая реальность // Журнал российского права. 2016. № 11. С. 160–171.

[3] See, e.g.: Flaminio Costa v E.N.E.L. Case 6/64. Judgment of the Court of 15 July 1964.

[4] See about it: *Тихомиров Ю. А.* Способы преодоления критических ситуаций как деформирующего фактора развития государств и мирового сообщества // Журнал зарубежного законодательства и сравнительного правоведения. 2022. Т. 18, № 1. С. 13–15.

[5] See in more detail: Конституция 1993 года: была ли альтернатива : материалы круглого стола (Москва, 16 января 2019 г.) / под ред. Т. Я. Хабриевой. М., 2020.

[6] *Хабриева Т. Я.* Конституционная реформа в России: в поисках национальной идентичности // Вестник Российской академии наук. 2020. Т. 90, № 5. С. 403–414.

The President's Address to the Federal Assembly on January 15, 2020, in fact, announced a strategy of further constitutional and legal development of the state, based on the values of man-made civilization and collectivism, as well as the priority of socio-cultural character of the Russian society.

The broad discussion that unfolded during the preparation of amendments to the Constitution of the Russian Federation demonstrated the public demand for the Basic Law to reflect the "constitutional authenticity" and a number of other values and moral guidelines.

The President's initiative, which was implemented in the Law of the Russian Federation on Amendment to the Constitution of the Russian Federation "On Improving the Regulation of Individual Issues of Organization and Functioning of Public Power,"[1] gave a start to something that was, albeit not a constitutional reform,[2] but still a transformation approaching the former in its significance, scope and depth.[3] Their implementation had the following consequences.

1. Expansion of value catalog of the Basic Law, so that it represents a more detailed reflection of historical origins, spiritual traditions and own ideals of the Russian society.

2. Modernization of the system of social rights of citizens and legal guarantees.

3. Adjustment of the form of public authority, giving it new outlines in connection with a tangible correction of the content corresponding to this form.

4. Special tuning of the state mechanism and implementation of public authority, as well as technological processes of formation and implementation of public policy, establishment of new parameters for the functioning of the system of public administration.

5. A change in the configuration of dichotomy of the national legal system, the extent of its openness and protection from negative external influence. It occurred through the incorporation of a new (but already tested through the activities of the Constitutional Court of the Russian Federation) formula of commensurate universal and national legal values, principles and norms, into the Constitution and constitutional legislation.

As a result of discussions at various levels, including public debate and debates in the chambers of the Federal Assembly, the updated Constitution of 1993 reflected or emphasized socially significant benchmarks which considerably expanded and deepened the value content of the Constitution. Among them are the following.

1. Socio-cultural and spiritual values are the basis of national (state) identity and self-identification of the Russian people: a multinational union of equal peoples united by a thousand years of history; continuity in the development of the Russian state; historically established state integrity; Russian as the language of the state-forming ethnos; all-Russian cultural identity; culture as unique common heritage while maintaining the cultural identity of peoples, ethnocultural and linguistic diversity; preservation of the memory of ancestors who gave us the ideals and faith in God; historical truth and its protection; patriotism, citizenship, honoring the memory of the defenders of the Fatherland, the importance of heroism of people in defense of the Fatherland; traditional Russian family values – marriage as the union of a man and a woman; ensuring the priority of proper family upbringing; respect and care for parents and elders, the solidarity of generations.

2. Values of social (including socio-economic) development: sustainable economic growth; advanced scientific and technological development; socially oriented public policy; "value-based" attitude to labor and respect for the worker; social partnership; public and individual health and shaping the culture of responsible attitude of citizens to their health.

3. Environmental value benchmarks: preservation of natural and biological diversity of the country, ensuring environmental safety, environmental education. Regulation of these provisions aims, inter alia, at establishing an optimal balance between individual freedom and the public interest.

4. Socio-political values: civil peace and harmony in the country; economic, political and social solidarity; development of civil society and support of its institutions, including non-profit organizations; international peace and security; peaceful coexistence of states and peoples. These values were not previously consolidated at the level of constitutional regulation in the Russian Federation, with the exception of some provisions of the foreign policy section of the Constitution of the RSFSR of 1978 (where there is a reference to the Constitution of the USSR).

5. State legal values: the principle of legal succession (legal continuity) in relation to the Union of SSR, securing the Russian constitutional identity in the domestic and international space; the principle of unity of public authority. Since the system of separation of powers that includes "checks and balances" is one of the signs of a state governed by the rule of law and is a value of a political, state-legal nature, certain changes in this system are also worth mentioning.[4]

In addition, emphasis has been placed on such values previously enshrined in the Basic Law as the sovereignty and territorial integrity of the Russian Federation, entrepreneurship and private initiative.

Not explicitly mentioned as a value, but present in the text of the Constitution (which can be determined through a systematic interpretation of its norms) is a strong, independent state, corresponding to the Russian mental tradition. The most important part of any Constitution is consolidation of the norms of state sovereignty at the highest legal level. The new wording of the articles on succession (legal continuity), strengthening international peace and security, and participation in international treaties should be seen in a general context that reinforces and deepens understanding of the concept of the sovereignty of the Russian Federation and the foreign policy of the state.[5]

[1] See more about this in detail: *Хабриева Т. Я., Клишас А. А.* Op. cit.

[2] On the features and characteristics of constitutional reform, as well as other varieties of constitutional change, see: *Хабриева Т. Я.* Конституционная реформа в современном мире. М. : Наука, 2016 ; *Хабриева Т. Я., Чиркин В. Е.* «Цветные революции» и «арабская весна» в конституционном измерении: политолого-юридическое исследование. М. : НОРМА : ИНФРА-М, 2018 ; *Khabriéva T.* La réforme constitutionnelle dans le monde contemporain. P. : Société de législation comparée, 2019.

[3] For a chronicle of the constitutional transformations, see: Конституционная модернизация – 2020 и Институт законодательства и сравнительного правоведения при Правительстве Российской Федерации // Институт законодательства и сравнительного правоведения при Правительстве Российской Федерации : [сайт]. URL: https://izak.ru/img_content/content/books/konstitucionnaya-modernizaciya-2020-2.pdf (date of address: 16.06.2022).

[4] *Хабриева Т. Я., Черногор Н. Н.* Будущее права: наследие академика В. С. Степина и юридическая наука. М. ИНФРА-М, 2020. С. 62–64.

[5] See in more detail: Комментарий к Конституции Российской Федерации (постатейный) с учетом изменений, одобренных в ходе общероссийского голосования 1 июля 2020 года / под ред. Т. Я. Хабриевой. М. : ИНФРА-М, 2021.

It is quite acceptable to assume the same approach to assessment of constitutional regulation of issues related to strengthening the protection of the Constitution itself, maintaining its authority and priority in the legal system of the country, and to non-interference in the internal affairs of the Russian state. The Russian Federation, as a sovereign state with full powers to determine the configuration of its own legal system, has previously consolidated in part 1 of Article 15 and will continue to exercise the supremacy of the Constitution over those norms of international law that do not align with it. First of all, it is about interpretations of the provisions of international treaties made by interstate bodies in contradiction of the Constitution of the Russian Federation.

In search for new strategies for legal development, both globally and nationally, most states are guided by the worldview agenda that reflects the defense of national sovereignty and cultural identity. For Russia, it is extremely relevant. Now that value markers have finally been placed in the Basic Law, we can move forward – to fine-tune the legal system of the Russian Federation in unison with the constitutionalized spiritual, moral and political-legal reference points. This will allow the Russian Constitution to take its rightful place in the global constitutional space and ensure the successful overcoming of shortcomings and deformations of the international legal order.

Value benchmarks of modern societies and their consolidation in constitutions

The constitutional reform of 2020 in Russia has heightened the interest in the axiological (value) component of the Basic Law. As we know, the text of the Constitution was amended to incorporate the historical heritage of the country, the cultural identity of all its peoples and ethnic communities, the protection of the institution of marriage and the family, social guarantees, etc. According to some liberal critics, the emphasis on collective identity in the updated Constitution allegedly aimed to "slow down the emergence of modern society in Russia."[1] In fact, strengthening of value elements in modern constitutionalism is a worldwide trend.

In the new or updated constitutions of non-European countries, the emerging trends manifest in overcoming of an exclusively liberal model of values that was considered to be universal. States increasingly assert not only political but also "value" sovereignty. It seems that the departure from the classical principles of Western liberalism in favor of protecting one's own sovereignty and the values of one's own development will accelerate, since the "universal," "all-human" ideals proclaimed by the West have proven to be little more than declarations in the current international environment. Even the values associated with inalienable human rights (freedom, property, security) were denied in practice and easily violated.

The history of world constitutionalism is inextricably linked to the axiological assessment of the constitution as the basic law in the state. In the words of one of the founders of the sociological school, E. Durkheim, one of the tasks of any constitution is "translation of ideas about the values of a society into the language of law." Moreover, according to Durkheim's concept, the very vitality of a society is determined by whether it has ideals and higher values.[2]

Even the first world's constitutional acts of the 17th–18th centuries in England, the United States, and France contained a reference to the basic principles and values of revolutionary liberalism: the rule of law, parliamentarism, separation of powers, natural and inalienable human rights. They were freedom, equality, property, and resistance to oppression.

The liberal individualistic constitutions of the eighth and nineteenth centuries were replaced en masse in the twentieth century by constitutions that enshrined the value concept of a "social" and "legal" state. Socialist constitutions based on values that deny or transform Western liberal ideology have also emerged.

At present, gradual change of the vector of world civilization's development toward a multipolar world (which is apparently encountering enormous obstacles) creates preconditions for the emergence of new constitutional value benchmarks. These benchmarks are mostly grounded in the historical diversity of cultures and national legal systems. This phenomenon is particularly typical of countries with ancient and distinctive cultural traditions, such as China, India, Russia, for the Arab-Muslim region (especially after the revolutions of the Arab Spring), and for some communities in Africa.

It is quite natural that the first two decades of the twenty-first century opened a new stage in the massive transformation of constitutions in these countries and regions of the world, which began to use new strategies of their development and concepts of their own socio-cultural identity. One can say that the socio-cultural, value-forming role of the Constitution as the basic law of the state is now more in demand than ever.

The evolution of global constitutionalism in favor of stronger defense of one's own values and national identity is particularly evident in the examples of the constitutions of Latin America, Africa and some Asian states. Even some Eastern European countries (e.g., Hungary) supplement their constitutions with provisions that are largely at odds with the Western liberal mainstream (e.g., marriage as the union of man and a woman, role of Christianity in preserving the nation, support for a unique language and culture, core values of the nation such as fidelity, faith, and love).

Whereas the first Latin American constitutions (Venezuela 1811, Argentina 1819, Mexico 1824, Bolivia 1826) followed French or North American models, the current constitutions are more authentic, taking into account local realities and enshrining various socio-economic values that had no parallel in earlier constitutions of the world.

After becoming independent, most African states have modeled their constitutions after former metropolises. However, in the most recent African constitutions there are increasingly more provisions that reflect the national specificity, national identity, and cultural uniqueness of these peoples. The role of traditional law adds originality to their legal systems.

A special group of African constitutions includes the constitutions of the states of predominantly North and Central Africa, sometimes referred to as "Islamic" constitutions.

[1] *Бланкенагель А.* Конституции, коллективная идентичность и конституционная идентичность: куда мы должны двигаться? (на англ. яз.) // Сравнительное конституционное обозрение. 2022. № 1 (146). С. 73.

[2] *Дюркгейм Э.* Социология. Ее предмет, метод, предназначение. 4 изд., испр. М. : Юрайт, 2019.

Many of the newest constitutions in the region emerged as a result of the revolutionary events that became known as the Arab Spring1. These include the Constitution of Morocco (2011), the Constitution of the Republic of South Sudan (2011), the Constitution of Egypt (2014), and the Constitution of Tunisia (2014). In addition to traditional Islamic values, they enshrine the foundations of the social and state system which reflect the specifics of the cultural and historical development of these countries. So, the Constitution of the Arab Republic of Egypt devotes several pages of its preamble to the historical features of the country and its contribution to world civilization.

It can be argued that in the African constitutions of the 21st century there is a significant expansion of the limits and objects of constitutional regulation, the intention to supplement the Basic Law with all important manifestations of social life and a wide range of moral and ethical values, which previously were not the subject of legal (especially constitutional) regulation. Special sections appearing in African constitutions reflect the basic goals and principles of state policy and "values of the state and the nation."[2]

It seems that modern Latin American and African constitutions deserve a thorough study by the constitutional scholars when it comes to the regulation of national identity and national constitutional values; they are often superior in this respect to the constitutions of Western countries and other regions of the world. They contain references to the value foundations and principles of building the society and the state, the main goals and objectives of public policy. Such goal-setting is fully consistent with one of the main features of any constitution – to be a political and ideological program document. Not all of the world's constitutions meet this challenge.

Value benchmarks are characteristic of the constitutions of all CIS states. In addition to references to the common values enshrined in the preambles, these constitutions establish the right to preserve national and ethnic identity (Article 56 of the Armenian Constitution) and ties with the Diaspora (Article 19), the responsibility of the state to preserve the national historical, cultural and natural heritage (Article 15 of the Constitution of Turkmenistan). The updated constitution of the Kyrgyz Republic contains a separate chapter dedicated to "Spiritual and Cultural Foundations of the Society" (Section One, Chapter III). Characteristically, none of these states assumes an obligation to "carry the light of their values" to the outside world.

We see a somewhat different picture in the European Union. EU experience shows that even generally accepted value benchmarks may not always lead in the right direction. It is well-known that the fundamental values of this association are enshrined in Article 2 of the Treaty on European Union.[3] They include the ideals of the rule of law, democracy, and human rights. Over time, these values have developed numerous protection mechanisms that are increasingly invading the constitutional development of individual member states. At the same time, the traditional mechanism for countering the "serious and persistent violation of fundamental values," the famous Article 7 of the Treaty on European Union, is complemented by more and more new mechanisms of oversight and enforcement. The apogee of this ideological pressure is the Rule of Law Conditionality Mechanism, envisioned in 2020.[4] It threatens to deprive Hungary of the EU Recovery Fund, which was created to deal with the consequences of the coronavirus pandemic, as well as other budgetary funds needed to implement the Union measures. This calls into question the very feasibility of Hungary's membership in the EU. As penalties set by the Court of Justice of the European Union for violating the values of the rule of law, Poland already owes the EU more than 100 million euros, and this debt is increasing by 1 million euros every day.

There are also concerns about the provisions of the Treaty on European Union, according to which the Union carries out international cooperation not in order to come to mutual agreement with other civilizations and peoples, but in order to protect and "promote" its own values, which is directly enshrined in Article 21 of the EU Treaty. This is nothing other than a "dictate of values," which entails concrete practical consequences. In 2020, the European Union issued Council Regulations[5] under which anyone in the world could be deprived of possessions, property, income and freedom of movement in Europe for actions qualified by the Union as "serious violations and abuses of human rights" (which is a very biased concept). And all of this is done outside of geographical reference, that is, as an extraterritorial effect of the association's regulations on individuals, without the need to decide whether to hold them internationally or domestically responsible.

Thus, the "dictate of values" has no place in the reboot of the modern world order and formation of the polycentric architecture of the world order, which is becoming inevitable. The negative experience of the European Union is a reminder that no amount of radicalism, dictate and extremism, even for the common good, contributes to the preservation of peace and well-being of people.

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To summarize, in recent decades, the entire system of law regulating the sphere of social relations at different levels has undergone a serious transformation. Lawmakers try to

[1] See more about this in detail: *Хабриева Т. Я., Чиркин В. Е.* Op. cit.

[2] It should also be noted that many terms denoting historical national institutions and establishments have been incorporated into the latest African constitutions in the national languages, without translation into European languages. For this reason, when the Institute of Legislation and Comparative Law under the Government of the Russian Federation was preparing a multi-volume edition of the Constitutions of the World, it was necessary to give either a word-for-word translation of these terms or a commentary to them. See: Конституции государств Америки : в 3 т. / под ред. Т. Я. Хабриевой. М. : Ин-т законодательства и сравнительного правоведения при Правительстве Российской Федерации, 2006 ; Конституции государств Азии : в 3 т. / под ред. Т. Я. Хабриевой. М. : Норма : Ин-т законодательства и сравнительного правоведения при Правительстве Российской Федерации, 2010 ; Конституции государств Африки и Океании : сб. / отв. ред. Т. Я. Хабриева. М. : Ин-т законодательства и сравнительного правоведения при Правительстве Российской Федерации, 2018–2022.

[3] Consolidated version of the Treaty on European Union // EUR-Lex : [website]. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012M%2FTXT (date of address: 16.06.2022).

[4] Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council of 16 December 2020 on a general regime of conditionality for the protection of the Union budget // EUR-Lex : [website]. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?toc=OJ%3AL%3A2020%3A433I%3ATOC&uri=uriserv%3AOJ.LI.2020.433.01.0001.01.ENG (date of address: 16.06.2022).

[5] Consolidated text: Council Regulation (EU) 2020/1998 of 7 December 2020 concerning restrictive measures against serious human rights violations and abuses // EUR-Lex : [website]. URL: https://eur-lex.europa.eu/eli/reg/2020/1998 (date of address: 16.06.2022) ; Council Implementing Regulation (EU) 2021/478 of 22 March 2021 implementing Regulation (EU) 2020/1998 concerning restrictive measures against serious human rights violations and abuses // EUR-Lex : [website]. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32021R0478 (date of address: 16.06.2022).

keep up with the rapid changes in the conditions of human existence. Each era created its own contexts, dictating its values to the law. The law preserves prior contexts which combine to form the memory of law, which is, akin to language, a code complementing the history. In our search for points of reference for modern law, let us not forget D. S. Likhachov's advice: all achievements of civilization must serve the human good.