

Some theoretical and methodological aspects of the relationship between the concepts of law, society, government and security

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Abstract. This article discusses some theoretical and methodological aspects of the relationship between the concepts of law, society, government and security in the Republic of Kazakhstan. Security has always been one of the most pressing problems of mankind, its software - the most important condition for the existence of the person, family, tribe, nation, society, state and humanity in general. Security must be considered as a legal definition, which is the purpose of legal regulation as such. Law aimed at undermining the security, or do not fully take into account this basic component of social life, directly aimed at undermining the state. It is in the sphere of legal regulation are serious changes. Security issues are beyond the scope of domestic regulation. The vast majority of international treaties concluded - an agreement aimed at ensuring security.

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Introduction

Correlation of the concepts of "right", "society", "state" and "security" is determinative [1, 2, 3, 4].

Security has always been one of the most pressing problems of mankind, its software - the most important condition for the existence of the person, family, tribe, nation, society, state and humanity in general.

Philosophical theory of social security has ancient roots. According to the contract theory of the origin of the state, namely safety and its maintenance were the primary cause of the creation of social institutions such as the state and society.

In the Hobbes's theory of "social contract" concept of security is at the heart. In his treatise "Leviathan", he noted that the essence of the "social contract" is that people care about their safety delegate their personal freedom to the sovereign, as in the natural state of savagery they were never able to guarantee the integrity and security. Proceeding from this, under the state Hobbes understands "... a single person responsible for the actions that have made themselves by mutual agreement between a huge number of people, so that a person could use the power and means all of them as it deems necessary for its peace and protection" [5, 197 p.].

John Locke's theory of the state and legal principles of civil society is very closely linked with the same problem - the problem of ensuring state security, and the security of the person covered as well as issues of public safety. Creating the theory of "natural law" and continuing to develop the theory of "social contract", Locke argued that security can only

be achieved in the optimal development of the society, whose members maintain the necessary freedom and opportunity for development. Thus, the concept of "security" is connected with the principle of separation of powers, with the existing system of checks and balances. For the first time in the theory of collective security include the concept of "the people." "People have the right to cancel or change laws if it finds that they are contrary to the case assigned to them, because all power, this guardian - law, limited interests of the people, and if those interests are neglected, care is necessary to select and return to the person who gave it and can give other, more worthy of trust, in his opinion," [6, 262 p.]. "Social Contract" was made for the sake of security, but when the state ceases to guarantee it, itself it becomes a source of threats, people should protect themselves from the state and, thus, guarantee yourself the most important rights. Thus Locke admits the possibility of opposing people's security and national security. Although in general the concept of security Locke meets certain general criteria. He identifies with the security of the individual security of the whole, which is understood as a society, people. At the same time the law, in his opinion, is a tool for achieving personal, social, and national security.

Theoretical understanding of the theory of security, and its close relationship with the law continues in Hegelian philosophy. Security opposes tyranny, that is, some not legal status. Hegel argues that humans' security has become second nature to him" [7, 54 p.]. Highlighting the three main forms of social existence, Hegel determines appropriate

security forms: family safety, security of civil society and state security.

In contradistinction to Locke and his supporters in the analysis of security problems of the state, society and the individual, Hegel gives absolute priority national security, noting that the security of the state is the basis of the security of the individual, but the lives and property of the individual may be brought into the victim, if the need arises. Security built by Hegel as a top priority, "the state does not have a contract, and the protection and promotion of life and property of individuals as the unit does not need to have it the essence of substance, then the state is the highest, which draws on this very life and property, and requires that they were sacrificed" [7, 148 p.].

Family, society and the state - are interrelated forms of existence of society, together with the closest relationship. If in earlier periods and later family identified as the dominant society, starting with the theory of Hegel, the state is regarded as a kind of more perfect concept, in which the family and civil society are its components. Family and civil society too achieve completeness and its peak only in the state.

This theory has been developed in the works of later researchers. Thus, Foucault, based on the theory of "social contract" that defines power as a result of this agreement. Before actors with authority, based on the nature of the "contract" put certain tasks, one of which is the provision and maintenance of state security. That is, according to his "social contract", the state must guarantee the security of its subjects (citizens). Interesting theory about Foucault reasonable government, free from tyranny daily occurring. And the instrument of this purification is the mind that can take control of power [8, pp: 161 - 190].

The theory of "social contract" as a way to achieve security and continued by other researchers. Its Current topics dedicated researchers such as Jean Baudrillard, I.A. Ilyin, and many others.

Based on the philosophical theory, the modern theory of security is becoming more applied nature. Vector of philosophical knowledge security today moves towards more practical phenomena related to the necessity of restraint threats everyday life, direct provision of personal and social security. This was one of the main goals of the entire system of state bodies, they have taken government acts. Accordingly, the theory of security has grown into one of the basic institutions in the system of governance of science.

Social and technological progress, previously received an unprecedented development, not only eliminates the existing dangers of life, but

also significantly increases. To agree with A.Y. Mozdakov, who believes that "the growth of the technical power of man, to increase its power over the forces of nature inevitably entails an increase in the hazards of human life, or, in the case of the dangers that existed from the very beginning of human history, zoom outbound threats" [9, 10 p.].

This paradox should be noted - a man for whom security was and continues to be the most important task itself becomes a source of threats, which are countless examples. Suffice it to recall the threat of nuclear war, Chernobyl, a wave of religious and other terrorism, uncontrolled extraction of mineral resources, etc.

The notion of "security" is a complex and multifaceted social phenomenon. In a literal sense means no safety hazard. Security itself is treated as a condition of protection. The S.I. Ozhegov's dictionary "security - is a condition in which no risk, there is protection from danger. In any security [10, 47 p.]. This concept more fully disclosed by V.V. Serebryakova: "Safety is the activity of people, society and the state, the international community to identify, prevent, eliminate the dangers and threats that can destroy them, to deprive the basic material and spiritual values, to inflict unacceptable damage, close the way for the progressive development" [11, 26 p.].

Security, its achievement and maintenance involves the use of a set of measures aimed at eliminating existing or foreseeable dangers. Man as a social being, can reach a state of security only in the process of interpersonal relationships, taking special measures of protection and conservation together. It is impossible to live in society and not to depend on it.

In the social environment in the relationship between people, the big role played by their interests. Interests "... a necessary attribute of public life, they are grouped people underlie the tasks and goals that they have set for themselves, they contribute to the choice of certain deeds and actions, attach the inner meaning of all their activities. Interests influence the course of social development, a sequence of many important events that directly or indirectly affect the lives of people, their state of affairs" [12, 526 p.].

There are different approaches to the classification of interest. However, the modern theory of the security approach takes as its basis the subjects of (media) interests and, accordingly, identifies three main types of security: human security, public safety and national security.

V.N. Balling offered enough holistic vision of interests of individuals, society and the state in relation to safety, based on the principle of their relationship: " On a personal level - a reliable

protection of personal and property safety, provision of science-based and government-guaranteed minimum material and economic conditions of existence in their tendency to improvement, the actual maintenance of constitutional rights and freedoms;

at the level of civil society organizations - to overcome the confrontation in society, achieve and maintain a national consensus on vital issues of political, economic, social, ethnic-national development of the country out of the crisis demographic and ecological situation and to ensure public health, strengthening the processes of formation of self-organization of civil society institutions; consciousness-raising activity of the population; overcoming the economic crisis and sustained economic development on the basis of the market economy, the formation of political and legal culture, consistent with the principles of civil society, ensuring the internationally recognized right of people's interests in foreign countries, ensuring economic, social, political, informational comprehensive conditions personal development;

at the state level - ensuring a steady sovereignty and territorial integrity of the state, ensuring socio-political and economic stability, protection and safeguard the legitimate rights, freedoms and interests of citizens, improving governance, improving the protection of the constitutional order, order, crime and corruption, development of an effective system of international relations based on partnership and cooperation, the creation of a reliable defense capabilities" [13, pp: 8 - 11].

Individual, society and the state are in constant and close relationship with each other, their interests are represented by a single complex interdependent and mutually complementary categories that can clearly be seen in the analysis of the interests of each category. Especially this relationship is found in security. Poor protection, insecurity interests of one of the categories under consideration is automatically reflected on the interests and safety of others. This axiom does not require proof.

The essence of security, its achievement and maintenance is to create conditions for the balance of different interests. Conducted by A.A. Prohozhev analysis of the evolution of approaches to this problem has revealed three major, namely the priority of interests, the interests of parity and balance of interests [14, pp: 117-125]. Balance of interests - a method to more fully consider the interests of each of the subjects in relation to each individual case, depending on the circumstances and the specific historical situation. That he was taken as a basis for

the modern concept of security, because only from this perspective the notion of "security" can be interpreted as providing the security of the entire social system (society and the state) and its individual element (person) from external and internal threats, and where the last act implemented as opposing and shared interests of each element of the social community.

Based on the foregoing, we conclude that the interests of their security and protection are key root cause of security. The main purpose of the security process, based on the presence or possibility of conflicts of interest of society, is to balance its interests. Analysis of the concept of state or national security in several countries shows that it is the balance of interests of individuals, society and the state was the foundation of the state security policy.

Achieving this balance is in the process of security is one of the most difficult tasks. Often, achieving security is the need to input certain restrictive measures against individuals and entities. To a certain extent, limit the legitimate interests of the individual interests of the population, its separate groups or society as a whole, during individual emergencies has under itself as a logical beginning and clearly formed a scientific and legislative framework.

Thus, the theory of administrative governance among the four possible bases restrictions on rights and freedoms of man and citizen defines national security interests, which, in turn, represent a balance between the interests of individuals, society and the state [15, 115 p.]. Such grounds are set by legislation, their operations include emergency or martial law , which was originally aimed at limiting the rights, freedoms and legitimate interests of citizens, organizations and associations with a view to localization and liquidation of emergency situations. This kind of adequate measures taken by public authorities to force the offensive real and immediate threats to the constitutional order and security of citizens [16, 58 p.]. The degree of threat must comply with any restrictions imposed. These limits are designed social contract theory, according to which people deliberately go to certain restrictions by virtue of their interests more important achievements, such as life and preservation.

Balance of interests, its achievement and maintenance provided by the state, which , according to the theory of the "social contract" that takes the responsibility to provide security, just as the social whole, and safety of an individual .

The State has the authority representing the inflexible authority having the opportunity to make their own free will to obey others. Instrument

displays and a base implementation of this will be right. "Right - regulator of the relations between people, which comes from the state and protected from abuse, along with education and persuasion, such a measure peculiar to law as an opportunity to state coercion" [13, p.19]. The state must identify, coordinate, consolidate, protect, and thereby ensure the realization of their will through the adoption and implementation of generally binding legal regulations, while the state will must be clearly balanced the public interest. "Otherwise, the opposition will of the state and society will lose the desired objective, fair, legal parity of public, state and private interests, and the right turning into legalized tyranny" [17 p.42].

However, in practice the state's interests in a dominant position in virtually all national social and state systems, as provided by the entire system of state power. Explaining the different actions of national security, public authorities carry out activities or purposeful policy, during which substantially affects the interests of citizens, so that there are many examples. Suffice it to recall the actions of the U.S., UK and several other countries in Afghanistan, Serbia, Iraq or provocative military action in Georgia and Abkhazia.

Security through state coercion often leads to opposition from public safety and individual interests. To achieve the public or national security state bodies ignore or are forced to limit the rights, freedoms and lawful interests of individuals, a wide range of individuals or entire population (of the citizens).

This tendency has always existed, but it is particularly exacerbated by some or other threats, the emergence of new hazards, the need to fight for these or other interests of the state, which can not affect the interests of its people and citizens. It is ironic that just care about power can sometimes be a very serious threat. Such actions are justified by the same Foucault: "The state guarantees the safety, there is a state which is obliged to intervene in all cases where the flow of everyday life disrupted some exceptional event. And as soon as the law is unacceptable, and immediately to be necessary ... varieties intervention is exceptional and the illegal nature of which is not should look familiar arbitrariness or excess of power, but it looks on the contrary, a sign of care"[8, p.46-47].

The events of 11 September 2001 in the United States are prime example, where, because of the terrorist attacks fundamentally changed the world community views on security, the means and tools for achieving this.

This event provided an opportunity for governments the U.S., UK and several other

countries make significant adjustments to their concept of security. Thus, in the "National Security Strategy of the United States" public safety and security of the person addressed solely through the prism of ideas about national security, allowing impunity conduct operations in Iraq, Afghanistan, Georgia. Now personal and public safety are put at the mercy of the will and interests of the state, which, possessing all the necessary legal and technical tools, has the ability to control and pressure on the individual. So, October 26, 2001 the U.S. Congress adopted the «Patriot Act» (Patriot akt), which greatly expanded the boundaries of state control over citizens, he expanded access to personal information, simplified data collection abroad, facilitated the obtaining of information on money laundering and other financial transactions, tightened border controls. Since 2008, the U.S. introduced a separate kind of customs control - control over all types of media , the essence of which is smuggled into the country that laptops, desktops, flash cards and other such equipment should be reviewed for the presence of intelligence agencies "suspicious information." If necessary, media may be delayed up to 15 days .

Dissemination of information was also limited. Introduced a new classification of information, defined as "a secret, but not attributed to a particular category," which allows you to not "hang out" on the site some information previously available to the former. March 19, 2002 U.S. Presidential Administration published a directive for the heads of government departments, is forbidden to publish or disclose "inappropriate disclosure of information" about nuclear power plants, weapons of mass destruction, including nuclear, biological and chemical. This directive is based on the fact that the security services arrested a student at Princeton University, who, using state documents publishing department of the Government of exceptional importance, created as part of the training project own atomic bomb without the use of plutonium. This argument is allowed to restrict the public in obtaining a wide range of information and data that is of great concern for the U.S. public.

If to this day value of security was seen as something given, guaranteed and stable, that from this day the security rose to the fore, even by limiting the freedom of the individual . Security is now seen as a necessary condition for freedom.

This example shows quite clearly the presence of certain kinks in the system of interests of individuals, society and the state, when security has become a pretext to achieve the interests of the state. This, in turn, causes serious protests from the U.S. population and the international community that ultimately resulted in undermining the international

authority of the USA, its government, criticized its domestic and foreign policy and, consequently, undermines some aspects of national and state security of this country.

Due to the fact that the number of spheres that represent certain security threats are constantly expanding, however, expands the scope of government control and, accordingly, the scope of application possibilities of the government. This leads to the possibility of significant limitations, and sometimes abuse of citizens.

Proceeding from this, an important theoretical and methodological importance is the need for a clear distinction between "social security" and "personal security." Social or otherwise, public safety, there is a warning, prevention and removal of threats to the normal functioning of the whole society. Accordingly, social security is universal, whereas personal safety can be characterized as prevention, removal and prevention of threats to the existence of the individual. Security of person, as mentioned above, can be achieved only in a society within which public instruments to guarantee its rights and freedoms. "It is unacceptable universal, the universal nature of social security to reduce the subjective nature of group and personal preferences" [10, p.18].

Lobbying certain group of individuals can lead to undermining the foundations of global security, as exemplified by the global economic crisis caused by the fact that certain financial circles used "bubble" for personal enrichment, by robbing banks' depositors, which could not affect the interests of citizens, lost personal savings, business, work.

Important role in the security of society takes national security, the stability of which depends on the level of coordination of interests of different social groups in society.

There are three main levels of government stability. The first level - the stability of the military-political leadership of the state. The second level - the stability of the political regime. The third level - the stability of community, the people, is to preserve the territorial integrity of the state, ensuring personal safety and welfare of its citizens, improving environmental protection and maintaining the demographic balance.

It is the third level of stability maintains the stability of the first and second levels. In ensuring the stability of the public interest, their security and the implementation of warranty interested all kinds of media.

At the same time, society itself is endowed with the ability to determine the effect on the process of personal security and security institutions. The most complete such opportunities are available in a

developed civil society, in which the relationship of "individual-society - state" most closely. In the post-Soviet countries society for a long time did not emerge as an independent entity, independent from the state, and did not have appropriate monitoring tools. Now only public institutions in these countries, who are more and who less, get opportunities to influence government activities.

The actual development of civil society institutions, providing opportunities for mutual dialogue and cooperation, mutual help and understanding are a major instrument for achieving a balanced interest of individuals, society and the state and, therefore, their safety. Formation and development of democratic institutions and for the most part focused on the achievement of a balance of interests.

In this "trio" special role interests of the individual. The modern concept of human rights and freedoms, despite its variety (natural, European, American, Eurasian, etc.), focuses on the individual, his rights and freedoms. Constitutional recognition of the priority of the individual's interests over the interests of society and the state shows Democratic orientation of development of a country. But in practice, this principle often does not work due to the fact that runs counter to the need for changes or reforms in a particular area, such as social protection of citizens with the introduction of market economic conditions or in the process of privatization or increased responsibility for these or other offenses, etc. Although these transformations and are held under the auspices of improving the welfare of society and to ensure the constitutional rights of citizens, etc.

In addition to the social nature, the concept and the inner content of "security" has a legal nature, the value of which is difficult to overestimate. "Any social community, and especially state, seeks to ensure its security through law. Right ... is a regulatory tool when using political power and security methods" [18, p.54]. From a legal perspective, security is a state of protection of the rights of the subject from various threats.

In this regard, one should recall the role of law in the security system.

Law, as the official form of expression of public will, is designed to regulate certain public relationship. It is through the law-making and law enforcement agencies shall ensure the implementation of the state of its functions, including the function of providing security for individuals, society and the state. The very nature of law is such that due to its ability to be normative and obligatory measure of freedom for everyone in the state-organized society, it is able to express a coherent will

of various groups in society, establish, maintain, protect, and defend a certain balance between the interests of individuals, society and the state. Every law in accordance with the theory of jurisprudence of interests should be directed at dealing with conflicts between interests. When legislating legislator should collate and compare the interests of various categories, to align and harmonize them. This will to some extent achieve a state of justice, "while maintaining the stability of the rule of law based on the law "[18, p.54 -55].

M.T. Baimakhanov, noting especially the right, as one of them highlights the fact that the right "often provides the coordination of interests, seeks to bring them to a common denominator, overcome their contradictions and conflicts" [8, p.528]. Reaching a compromise of interests, elevating this compromise on the level of law, the state provides the most stability of certain regulated relations and smoothing out the contradictions and conflicts, strives to achieve universal security.

Safety should be the law is guaranteed, as it is the law as a form of expression of public will, binding on all subjects of legal relations, which is supported by the activities of the entire system of supervisory and law enforcement.

Conducted by specially authorized state bodies, security policy must be provided with the letter of the law. States created whole system of special legislation - legislation on safety, which are a separate group of normative legal acts regulating all aspects of national security. Today we can say that there is a global trend detailed and comprehensive legislative regulation of all aspects of government, and with it the public and personal safety. Thus, the only information security issues are regulated in Germany more than 150 legislative acts in the U.S., this figure exceeds 500.

Given the fact that the security in the broad sense - is to ensure that all citizens of the state of normal conditions for self-protection of their life, liberty and property from attacks by an individual, organization, or the state itself, it follows that the economic, social, environmental and many other aspects of life, their condition can not affect matters of common security. Accordingly, the laws governing these issues, can also be considered normative legal acts providing security. This position may seem controversial. Of course, security is to be understood under the state protection of vital interests. But today received a comprehensive security. Now we can not only talk about the protection of life and put the military security of paramount importance, as it was in the twentieth century, or only with the delivery of vital interests, as it was previously. The transition of society to higher

levels of development dictates new conditions. Should already speak about the quality of life, as social, environmental, psychological, spiritual, moral and other conditions in which there is a society, personality, and, respectively, the state. In this case it is the state takes over the main functions of the quality assurance of the existence of, and the law acts as the main component and the guarantor of the implementation of the duties entrusted to state security.

Conclusion

From a theoretical point of view, the theory is generalizing, but it has a right to exist.

Adopted laws should be based on the concept of the state (national) security, which, in turn, is an official document that secures the scientific system of views on the protection of the constitutional rights of individuals and citizens, values of society, the fundamental state institutions. Such a concept adopted by virtually all countries.

Based on the foregoing, it must be concluded that the legal nature of security is that security as a condition of protection of the vital interests of the rights provided by the letter of the law. Accepted state regulations and individual acts of government should be aimed at balancing the interests of regulated entities of social relations, thereby providing protection and security for their interests. Security of the person, society and the state is the main goal of government regulation, provided the entire system of government and, therefore, is the basis of every law. Security must be considered as a legal definition, which is the purpose of legal regulation as such. Law aimed at undermining the security, or do not fully take into account this basic component of social life, directly aimed at undermining the state.

In today's world the need for security has become a major political priority, the need to ensure it has led to the revision of the position of world powers and small states, their union in an effort to achieve a common, that is, collective security.

Collective security is a new method in dealing with existing and potential threats, as well as a new stage of historical development of global coexistence, while on the theoretical side it can be classified as a logical continuation of the social contract, in which the subjects of voluntary agreements are not people, and the state. The goal and the reasons remain the same - security.

It is in the sphere of legal regulation are serious changes. Security issues are beyond the scope of domestic regulation. The vast majority of international treaties concluded - an agreement aimed at ensuring security. Collective security has led the

creation of the international community and organizations, which, in turn, create a new mechanism to achieve a balance of interests.

This is largely justified by the fact that globalization has revealed the presence of another type of existing contradictions - contradictions between existing national (nationwide) and global interests, planetary. With such contradictions state copes not. The most significant contradictions must include the environmental situation, the integration of cultures, informational influence, mixing close economic institutions, etc.

Collective security has moved to a higher level of quality and is a voluntary collaboration of Independent States to prevent and combat threats to the vital interests of these countries, the achievement of universal security. At the same time, collective security, which is a process of balancing the interests of states, based on the norms and principles of international law, which must comply with the national legislation.

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