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“PATRIOTIC LEGISLATION” AS THE RESULT OF POLITICAL INSTITUTIONS’ ACTIONS

The article studies specifics of the impact of contemporary political forces on patriotic legislation. Existing approaches to the patriotic lawmaking in consolidated democracies and transition states are revealed. Directions for the interaction of patriotic political forces regarding patriotic lawmaking are determined. The theoretical definition of the political and legal culture of patriotism is made. Attention is paid to the peculiarities of the political and legal defense of patriotic values and interests on the state level.

The author substantiates the thesis that in the modern world “patriotic legislation” is not only the form of measures to protect the domestic market but also a measure for complex formation of political security, definition of rules of interaction between political actors, implementation of joint actions among related political forces.

It is determined that patriotic lawmaking is the result of a series of large-scale political processes and underlined that the consolidation of civil society, political structuring based on democratic values, new patriotic political leadership in the transforming countries are the main conditions for ensuring the political process. The article proves that the role of patriotic political forces is to provide institutional support for patriotic legislation and to initiate and lobby patriotic projects, as well as to monitor implementation of adopted political norms.

Attention is drawn to patriotic acts in the contemporary world. It was also found out that patriotic acts are factors in balancing the demands of ideological and political practice, which focuses on the broad social needs and interests.

Key words: patriotic legislation, political parties, interest groups, political institutions, developed democracy, political agenda.

Formulation of the problem. Growing interdependence of countries as a result of globalization generates not only the integration processes but also countries’ desire to protect state sovereignty in domestic policy. The significance of political and legal interactions of political institutions in the context of protectionist activity increases the relevance of not only ideological but also regulatory justification for the activity of patriotic forces. Protection of pragmatic national interests in politics becomes urgent due to increasing competition among countries in the fight for resources and opportunities for global integration projects. However, as the example of modern Ukraine shows, conflict relations with neighboring countries determine the need for concerted action aimed at protecting national interests by internal political means. The so-called “patriotic legislation” in the modern world takes not only the form of measures to protect the domestic market, but is also critical for the complex formation of political security, establishing rules of interaction between political actors, implementing joint actions of related political forces, and so on. Patriotic lawmaking is the result of a number of major political developments, among which the main are the consolidation of civil society, political structuring based on democratic values, the origin of a new patriotic political leadership in the transforming countries. An important task of the modern political science is to assess the importance of trends of patriotic political and of legal regulation in order to establish its influence on democratic reforms in Ukraine.

Patriotic lawmaking is an indicator of political forces’ position on various aspects of national interests, their relationship with the domestic and international agenda. Thus, the problem of patriotic

legislation and the impact of political institutions on it is an important scientific problem, which coincides with the need to identify the concept of “patriotic political forces”, the trends of interaction between law and politics, the formation of political and legal culture as a synthetic concept. The latter reflects, on the one hand, features of political behavior in a democratic society, on the other hand – the level of adherence to the rule of law by political actors.

Analysis of recent research and publications. Though the issue of “patriotic legislation” is a part of a democratic political process, modern multidisciplinary scientific discourse considers it within issues of legal regulation of specific sectors of society. Approaches to determining political manifestations of patriotism are related to various subject areas. Thus, domestic scholars define patriotism as one of the leading factors of state-building at the conceptual level (this are primarily the works of such as authors A. Kolodii¹, B. Karpinskyi², V. Krotiuk³, O. Rak⁴, etc.). Foreign scientists focus their search on specific scientific issues of political and legal regulation. In particular, J. Perrun⁵ examines historical aspects of the patriotic consensus in Canada; D. Peterson⁶ notes the ethnic specificity in East Africa; L. Burkhart⁷ explores the patriotic essence of legislative regulation of the energy sector in the US. However, special attention should be paid to the activity of political institutions in the context of implementation the principles of patriotism into lawmaking or legislation’s predetermination by patriotic values.

The purpose of the article is to establish peculiarities of the impact of political institutions on the formation of patriotic legislation as a phenomenon of modern pluralist democracy.

Presentation of the basic material. The evidence of the impact of political forces on political and patriotic regulation is the example of the Law “On deterrence and punishment of terrorist acts” in the United States⁸. Similar regulations are adopted worldwide and serve as a means of improving the efficiency of law enforcement tools, and for the purpose of consolidation of society in terms of growth of external threats.

The content of political and legal protection of national interests is an interesting material to detect political factors in the activity of political actors who may not have a significant patriotic identity. It may occur in the names of political parties or indicate the ideological orientation of political leaders. Political consolidation around the issues essential for social development defines the combined effect of many institutions, which approve the necessary legislation. The activity of the political institutions of the modern United States after 09/11/2001 tragedy points to the possibility of consolidation of major patriotic political forces, even if there are substantial doctrinal antagonisms. The adoption of the so-called “Patriot Act” was a reflection of the joint understanding of the interests of the whole nation and the result of collaboration between existing political forces (both Republican and Democrat). As stated in the “Patriotic Act”, the nation is called upon to recognize patriotism of citizens regardless of ethnic, racial and religious differences⁹.

A special role in the political and legal support for patriotic legislation in the developed democracies belongs to the political and legal culture that provides an adequate perception of the fundamental rules of political coexistence. American constitutional practice, calls this phenomenon the “constitutional patriotism”. It means a broad agreement between citizens and political institutions in regard to fundamental

¹ Колодій, А. *Національна єдність і патріотизм як чинники національної безпеки* <<http://political-studies.com/?p=541>>(2016, December, 25)

² Карпінський, Б. А. (2013) Державотворчий патріотизм нації як основа фінансового забезпечення конституційного ладу (Частина I) *Науковий вісник НЛТУ України*. Вип. 23.12.

³ Кротюк, В. А. (2013) Сучасні концепції дослідження патріотизму *Вісник Національної юридичної академії України імені Ярослава Мудрого. Сер. : Філософія, філософія права, політологія, соціологія*. № 5.

⁴ Рак, О. Ю. (2013) Патріотизм і націоналізм – дві невід’ємні складові політики (інтроформаційний підхід) *Політологічні записки*. № 7. <http://nbuv.gov.ua/UJRN/Polzap_2013_7_15>(2016, December, 25).

⁵ Perrun, J. (2014) *The Patriotic Consensus: Unity, Morale, and the Second World War in Winnipeg*. Winnipeg. University of Manitoba Press.

⁶ Peterson, D. (2012) *Ethnic Patriotism and the East African Revival: A History of Dissent*. Cambridge. Cambridge University Press.

⁷ Burkhart, L. A. *Red, White, and Ready: The Patriotic Push for Energy Legislation* <<https://www.fortnightly.com/fortnightly/2003/05/red-white-and-ready-patriotic-push-energy-legislation>>(2016, December, 25).

⁸ *USA Patriot Act* <<https://www.gpo.gov/fdsys/pkg/BILLS-107hr3162enr/pdf/BILLS-107hr3162enr.pdf>> (2016, December, 25).

⁹ *USA Patriot Act* <<https://www.gpo.gov/fdsys/pkg/BILLS-107hr3162enr/pdf/BILLS-107hr3162enr.pdf>> (2016, December, 25).

rights and freedoms and general rules of the political game. Recognition of fairness and adequacy of these provisions by all political actors leaves openly radical and destructive practice of politics beyond political interactions, holds the line between acceptable and marginal political actions. Thus, the “constitutional patriotism” is a general term for all political forces and citizens regardless of their ideological preferences. In support of this thesis American researcher D. Strauss notes, describing the position of a US citizen and a political leader of this country, “I want to live in this country, and I will play by the established rules ... though the Constitution – is not a part of my tradition and my heritage; and despite the fact that I do not have particularly strong patriotic or emotional ties with the United States, the Constitution or institutions...”¹.

Identification of the constitution and the constitutional-legal consciousness as the starting point of political coexistence determines the need for all political forces to refer to the Constitution in their actions and perform certain actions to preserve constitutional order and system. Particularly these motivations are typical for conservative political forces and movements. Thus, constitutional patriotism is not only the basis for understanding the framework of political interactions, but also a direct motivation for political actions outside electoral platform or party requirements. D. Strauss emphasizes that according to the current Constitution, the principles adopted as the foundation of what contains the Constitution are largely a matter of common legislative process. Thus we understand that the process of joint lawmaking is indeed legitimate².

The most obvious consequence of patriotism to the political and legal support of national interests is defending and regulatory support of economic actors – entrepreneurs and companies, and so on. Despite regulation of economic activity by market mechanisms, substantial assistance from the state remains one of the major success factors of entire industries. Therefore the phenomenon of patriotic legislation in the narrow sense (as conducive for domestic corporations) is one of the leading activities of patriotic forces. Advocacy of group interests is one of the most ancient mechanisms of politics and political activity in the US. Implementation of legislative support for corporate sector marks the manifestation of the political influence of patriotism on pragmatic economic interests. According to D. Yosifon, “... in times of crisis, we may want to corporate decision-making was more formulaic, even without extra reminders. We may want to corporations regularly operated under the patriotic attitudes, and to do according to the American national interest as in the case of profit because otherwise, this would promote the interests of other countries...”³. Availability of patriotic legislation in the economic environment, in accordance with the position of contemporary American scientists, identifies the need for appropriate behavior on the part of companies and corporations to comply with the general interest of the nation and achieve prosperity of the important parameters of social development.

In this context, the demands on compliance with environmental protection and social responsibility standards are also important. These standards are generally accepted for corporate sector of the democracies and do not require additional public pressure or certain actions of political forces. Patriotism can not be considered as a certain disadvantage, says the American expert, most likely it is an exception, an evidence of a patriotic conscience during corporate transactions, as a morally desirable function or bonus feature, as entitled shareholder primacy in corporate governance⁴.

The interaction among political and institutional players on the field of defending patriotic interests is associated not only with pragmatic considerations of profit, but also the capabilities of the business environment to adequately accept priority directions of development, which are emerging in each particular situation in modern Ukraine. Political and institutional players (parties, interest groups, etc.), having rhetorical declarations on the protection of national interests, are often associated with groups that carry out the import of foreign products which harm domestic producers. This contradiction is a project and technological trait of certain contemporary political forces.

¹ Strauss D. A. *Legitimacy «Constitutional Patriotism» and the Common Law Constitution* <<http://harvardlawreview.org/2012/12/legitimacy-constitutional-patriotism-and-the-common-law-constitution/>> (2016, December, 25).

² Strauss D. A. *Legitimacy «Constitutional Patriotism» and the Common Law Constitution* <<http://harvardlawreview.org/2012/12/legitimacy-constitutional-patriotism-and-the-common-law-constitution/>> (2016, December, 25).

³ Yosifon, D. *Is Corporate Patriotism a Virtue* <<http://digitalcommons.law.scu.edu/cgi/viewcontent.cgi?article=1881&context=facpubs>> (2016, December, 25).

⁴ Yosifon, D. *Is Corporate Patriotism a Virtue* <<http://digitalcommons.law.scu.edu/cgi/viewcontent.cgi?article=1881&context=facpubs>> (2016, December, 25).

The interest of economic actors in the adoption of appropriate “patriotic legislation” imposes on them certain requirements of compliance and liability, justifying certain privileges to the general public opinion. “If patriotism is a virtue, there can be legitimate grounds to condemn the removal of patriotic consciousness from the law of corporate governance. The fact that American corporations with international cooperation can, in pursuit of profit, make decisions that undermine the interests of the nation, or in the end, support other countries at the expense of the United States is of concern” says D. Yosifon¹. In today’s Ukraine preferences to domestic corporations create a situation in which political actors (parties, social movements) become objects for manipulation from various economic interest groups².

The powerful US corporations – such as “Enron”, “Exxon-Mobil” – defined policy of several administrations of US presidents from the Republican Party. However, opponents of such protectionist policies exist even in the US; they questioned the validity of decisions and dependency of US foreign policies on corporate interests. Moreover, in developed democracies, patriotic legislation as a mechanism of protection is significantly restricted by extensive international integration agreements (which, as we can see now, are actively reviewed by D. Trump’s Administration). Also, it is important to pay attention to the competition among corporations that need state legislative support. Thus, according to D. Yosifon: “it is very likely that the issue of corporate patriotism was never suppressed, but it was often avoided... the issue will soon attract the attention of the public and politicians. When that time comes, the political theory should be ready to play its role, to specify and make clear the conditions and consequences of different positions”³. Thus, in the modern world, patriotic legislation is a factor of balancing ideological demands and political practice, which focuses on the broad social needs and interests.

It should also be noted that patriotic legislation as a field of political actors’ activity, who defend the values of patriotism and seek to exploit the current political situation to defend their ideas and programs, provides evidence of systemic work of political forces within large-scale projects. They reveal the goals and objectives of their activities. At the same time, the patriotic legislation creates a certain environment and regulatory conditions for political interactions and recognition of the status quo by other forces. However, the consequences of the adoption of patriotic laws and instructions, as the result of modern political institutions’ activity, are associated not only with pragmatic demands of corporate interests but also with a symbolic plane of patriotic ideas and positions. Here appears subjective nature of defending doctrinal provisions of the modern political patriotism in the legal field. This is evidenced by the example of modern India. In particular, Indian human rights activist A. Gupta said: “the interim decisions of the Supreme Court (in *Shyam Narayan Chouksey v. the Indian Union*), regarding the performance of the national anthem in cinemas prior to the exhibition of movies, led to people’s outrage. Thus, according to the court decision, the order was set that includes seven areas to comply patriotism... first of all, this applies to the mandatory performance of the national anthem before demonstration of a movie in a cinema”⁴.

The use of national symbols quite often becomes the subject of debate and political regulation in many countries. If legislators plan is the implementation of actions of certain political forces aimed at honoring national symbols, then the other side of the political spectrum may consider such steps a humiliation. In such situations, patriotic legislation, which also has symbolic importance, can be a source of large-scale conflict, not harmony in society. “Negative sentiments are often expressed about the court’s inefficiency and lack of transparency. These are used to buttress a larger institutional objection to the courts disturbing a constitutional balance by passing judgments that take the colour of legislation or executive determinations,” says A. Gupta⁵.

Assessing the significance of patriotic legislation as a reflection of interaction balance of political forces in each particular country, we must take into account configuration of legal institutions and their

¹ Yosifon, D. *Is Corporate Patriotism a Virtue* <<http://digitalcommons.law.scu.edu/cgi/viewcontent.cgi?article=1881&context=facpubs>> (2016, December, 25).

² Завальний, М. *Патріотизм законодавців – категорія не тільки моральна* <<http://www.viche.info/journal/3104/>> (2016, December, 25)

³ Yosifon, D. *Is Corporate Patriotism a Virtue* <<http://digitalcommons.law.scu.edu/cgi/viewcontent.cgi?article=1881&context=facpubs>> (2016, December, 25).

⁴ Gupta, A. *A legal overdose of patriotism* <<http://www.livemint.com/Opinion/yGaPvap9RAMNcRbZzAO6CJ/A-legal-overdose-of-patriotism.html>>(2016, December, 25).

⁵ Gupta, A. *A legal overdose of patriotism* <<http://www.livemint.com/Opinion/yGaPvap9RAMNcRbZzAO6CJ/A-legal-overdose-of-patriotism.html>>(2016, December, 25).

interaction with the sphere of political decisions¹. Obviously, the balance between political and legal factors in transformation countries determines certain characteristics in implementing patriotic regulations and laws. As the example of modern India shows, misinterpreted “patriotic legislative act” could be the basis for appeal in a legal environment.

Patriotic legislation in modern Ukraine needs a national consensus in the context of defending pragmatic interests and respect of its symbolic value. This puts on the agenda the issue of improving means of patriotic education and communication between generations, which acquire relevance since 2014².

Conclusions. Political and legal activity on the protection of national interests on the internal political scene is becoming acuter because of the desire of modern states and political forces most effectively use capabilities of financial communication impact. Patriotic legislation and patriotic rulemaking act as a reaction of political and institutional systems for signs of external interference. As the example of the modern US shows, the patriotic legislation does not contradict to fundamental liberal and democratic norms. However, it is in the field of large-scale national debate. Unless restricted by security agenda, the political and legal patriotism in developed democracies is a means of expression of political positions. It is embodied not only in rhetorical statements, but also in targeted actions that may be the implementation of program guidelines of political forces, and the result of the situational reaction.

Availability of constitutional principles in patriotic political and legal consciousness and their theoretical understanding highlights the problem of individual political freedom and collective responsibility for the situation in a particular country. In the transitional countries, which include Ukraine, the question of patriotic legislation is still at the level of a conceptual discussion. Implemented measures have the scope of peripheral cultural and educational nature. Comparing domestic practice of political and legal patriotism, it should be noted that the specification of areas of political and legal patriotism can contribute to the progression of our national policy to a new level. This should be facilitated by partnership relations among major democratic forces, the desire to displace interests and aspirations of political forces, which act today with initiatives on the protection of national statehood, into the formal plane.

In general, patriotic lawmaking, in accordance with the opinion of foreign scientists, is the result of the activity of many political forces³, but not just those who declare their patriotic position. In this regard, the aim of patriotic political forces in institutional support of patriotic legislation is to initiate and lobby such projects, as well as monitor implementation of already political rules.

Prospects for further research and development of the issues raised in this paper are to determine national interest as a source of political activism of modern political parties in the world and in Ukraine.

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