

THE LEGAL REGULATION OF CULTURAL AND NATIONAL AUTONOMY IN RUSSIA

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ABSTRACT

This paper aims in the interpretation of the reasons why cultural and territorial autonomies in prerevolutionary, Soviet and contemporary Russia occur in the directions opposite to every previous stage. Their legal definitions reflect that they provide different ways to realize personal autonomy through access to the advantages of community's autonomy. Considering state policy and state institutions using historical and legal material, the paper analyzes implications regarding improvement of the constitutional-legal status of all the individuals and their groups, and identifies their developing relationships with the state. The study shows that in contemporary multicultural and multinational Russian society, where group interests have dominated over personal interests and peoples have lived together for many centuries without the need for minority's accommodation, the legal concept of autonomy mainly points to the ethnic, religious or linguistic character of the community.

Keywords: Territorial Autonomy (TA), Non-Territorial Autonomy (NTA), Cultural Autonomy, National Cultural Autonomy (NCA), Minority Rights, Cultural Identity, Constitutional Law.

JEL Classifications: D63, D71, H79, K10.

INTRODUCTION

Recently, autonomy has become an attractive notion for individuals and groups, especially for different types of Russian minorities. The very significance of autonomy in itself is universal and no culture denies it; however, the level of autonomy differs. We address to the gap between the increasingly conspicuous claims for autonomy and the differences in its understanding. The objective of the paper is to clarify the transformations of personal, non-territorial (mainly cultural and non-political) and territorial autonomy (often associated with self-government and sovereignty of title ethnicities) in Russia, having a collectivist past and ethnic diversity. The research questions are as follows. Are there more and less preferable forms of community's autonomy? Or do suitable forms and extent of autonomy depend on current social circumstances and culture? Our hypotheses on the "cycles" of Russia's autonomies development include:

H1: The activity in autonomies creation is due to crises periods for power and uncertainty.

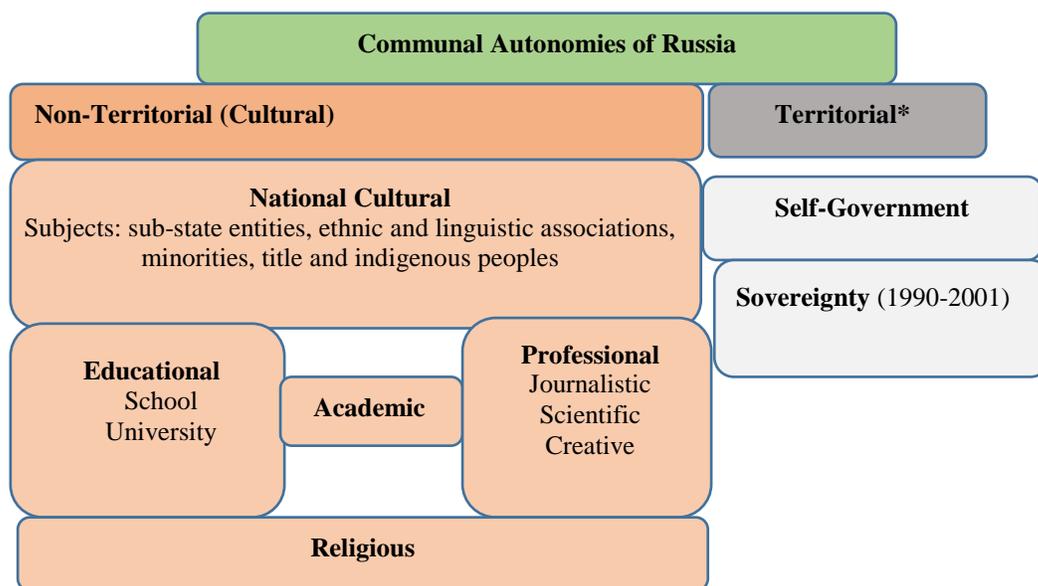
H2: In stable periods, the movement for autonomy goes down.

The paper is organized as follows. The “*Background*” provides a brief overview of the relevant literature on the differences Western and Russian autonomies background and works, given that they are not well known. “*Historical Perspective*” includes a comparison between development of TA and cultural autonomy in Prerevolutionary and Soviet Russia. The “*Current Development of Autonomies in Russian Federation*” section discusses in more details the development of legal definitions of cultural autonomy and the challenges that NCAs and TAs face in today's Russia. The “*Method*” section describes the data and methodology. “*Discussion*” contains a debate concerning the nature and causation of autonomy interpretation and changing cycles. “*Conclusion*” can be useful for lawyers and politicians who can learn some lessons from the approved hypotheses evolution of autonomies forms.

RESEARCH BACKGROUND: DEFINING AUTONOMIES

In Western thought, personal (opportunity to realize oneself independently) and communities autonomy are often considered to be contradictory a limiting each other (Johnston, 2017). Indeed, personal autonomy is interpreted within the framework of negative freedom concept, as elimination of restrictions and custody by the authorities. In Russian legal tradition, on the contrary, personal and communities autonomies only can function together and support each other. For instance, cultural autonomy is a “*dialogical*” relationship between persons, groups and communities (Lukmanova & Sirazetdinova, 2015), thus, persons legally create groups of adherents with similar autonomous units for becoming legal entity (acquiring the status of a collective subject of law) and independent realization of their interests. Together they can acquire the status of a collective subject of law for independent realization of their interests. Contemporary Russian lawyers regard mainly communities’ autonomy through emphasizing the idea of positive freedom and self-government.

Up to now, theorists of autonomy, in the footsteps of Lenin and Stalin consider as competing or prove the advantages of territorial (Kymlicka & Banting, 2013; Keating, 2012) or NTA, which includes “*cultural*” (Roach, 2017) types of autonomy, and compare the degree of autonomy by the criteria effective for assessing Western European autonomies. Few researchers (Gagnon, 2015) consider territorial autonomy TA and NTA as complementary involving law and international relations materials. Following Gagnon, we can formulate that while “*Territorial Autonomy (TA)*” is a legal status that relates to people living on certain territory, “*Non-Territorial Autonomy (NTA)*” is a status that includes spheres of communal activities independently from the territories. It means that cultural, religious and professional organizations, and minorities have their autonomies in the regions where they do not have status of title ethnicities, and their autonomies do not violate the territorial integrity of the country. Therefore, *cultural autonomy* mainly refers to non-political nature of association. For “*National Cultural Autonomy (NCA)*,” national identity has the legal manifestations in culture of group or community: way of life, language, traditions, art, science, and religion. Being one of the types of cultural autonomy, NCA is the best way to resolve the contradictions of the multinational state, as a peculiar model of self-governing ethnical communities in the state. Figure 1 presents the variety of TA and NTA autonomy according to Russian legal system.



Note: *A “national-state” form achieved only by sub-state entities.

**FIGURE 1
COMMUNAL AUTONOMIES OF RUSSIA**

The right to draw up and implement legal acts makes autonomy different from local “self-government.” The latter can issue by-laws, since local self-government does not oppose itself to the rest of other municipality’s population by any marker of discrepancy (Suksi, 2011; Baldacchino, 2004) ethnic, religious, linguistic. At the same time, “claim to self-government or to self-determination is not necessarily equivalent” to the radical “demand to set up one’s own state” (Keating, 2012). Kokoshkin (1906) noted that in any sort of somewhat developed self-government, there are always rudiments of autonomy. Proceeding from this, the concept of TA can be used both as close to self-government, and as the realization of an autonomous state (*sovereignty*).

Historical Perspective: Prerevolutionary and Soviet Autonomies

The idea of cultural autonomy, based on the ethnic and religious principles, initially found its reflection in “Prerevolutionary Russia.” The government critics appealed to Stolypin’s Cabinet to grant certain rights of dissidents and strangers. State Duma, in its draft laws, attempted to liberalize domestic policy, but had not adopted these bills, and their final versions did not recognize the equality of population. During and after the first Russian revolution elements of cultural self-government appeared: non-Orthodox religious education, non-state schools, amateur clubs and societies for national minorities, and the press in ethnic languages.

Then the Communistic Party of the Soviet Union united representatives of creative professions into creative unions (theaters, cinemas, philharmonic) in the mid-1930’s and controlled their activities. The Bolsheviks regarded NTA as a threat to the class unity of proletariat although no single region was homogeneous in ethnic or religious structure. All

Soviet Constitutions (1918, art. 22; 1925, art.13; 1937; 1978) granted the citizens equal rights independently of their ethnicity, and regarded privileges, oppressions of national minorities as the violation of law. Nevertheless, the multi-level system of TA became unprecedented in the independence with “*all nations right to self-determination up to separation*” (Constitution of the RSFSR, 1925) and complexity of hierarchy, commonly compared with the Russian doll matryoshka, where local elites of “*incorporated*” autonomies could lobby their status through competition. The most progress Kirgizia has reached, going the path from an autonomous province joined to Kazakhstan to the Soviet Socialist Republic.

Only 72 years later, Russian Parliament adopted the Declaration on State Sovereignty of the RSFSR (1990), granting every nation the inalienable right to “*self-determination in its elected national-state and national-cultural forms*” (par. 4). Cultural form provided public organizations, mass movements and religious organizations with self-determination and legal opportunities to participate in the state and public affairs government (par. 12). It became possible to form NCAs and religious public associations basing on common political, economic and cultural interests, heterogeneous from the cultural point of view: Cossack societies, indigenous peoples and national cultural centers, local communities (*zemlyachestva*), religious organizations, professional, creative and scientific associations (unions, guilds).

Current Development of Autonomies in Russian Federation

As to TA, due to “*political turbulence*” of the “*sovereignties parade*” period, constitutional debate with “*Russian Catalonia*” Tatarstan, and the attempts to get sovereignty on the part of Chechnya and Ingushetia, the year 2000 was the starting point of centralization: renouncing of mutual agreements, enlarging the regions and creating seven federal districts, substitution of election by nomination and renaming the presidents of the republics into the heads of regions. While preserving certain outer, formal signs of the former administrative-territorial system, regional standardization led to the significant diminishing influence of regional bodies, and cultural communities ceased orienting on the ideas of national independence (separation) and dividing the power. In order to prevent protests, however, it is not necessary to destroy autonomy, but to suggest something instead, and this something became the cultural autonomy. In its implemented “*truncated*” form, Russian multinational state does not impede cultural self-determination of peoples, unless they claim political autonomy as a separate territory or state.

NCAs support national and cultural identities: open Sunday language class for adults (“*Bashkortostan*” Tomsk City NCA), organize creative collectives choreographic and kubyzist ensembles, participating in regional festivals and competitions, informs the members about concerts, national and cultural events held in the city (St. Petersburg Bashkir NCA), produce newspapers with thematic issues about people living in other regions, hold days of national culture. The news are placed on the radio (National Radio and Tavan Radio of Chuvashia Chavash Yen, Tatar radio) and television (Sakha National Broadcasting Company, Tatarstan New Century, Association of Youth Television in Kumertau, Mother Tongue Bashkir-Tatar TV channel, private channels), the names of the streets and shops in native languages are opportunities to realize cultural needs. Beauty contests (Tatar girl, Hylyukay Beauty contest) include catwalk, choir, and cultural expression: mother tongue speaking skills, self-presentation with good grace, knowledge of people’s traditions and customs. The most successful NCAs involve representatives of other ethnicities in their work (Chishma St. Petersburg Tatar-Bashkir society, Ural Land community, Slavonic NCA). However, none of them touches upon the

matters of inequality, managing the resources, the power and public organizations, limiting their activity to cultural-educational aspect.

The Law on the NCAs should promote self-organization of citizens, but it contains significant procedural limitations for creation and functioning of these institutions, compared with NGOs due to the apprehensions of collaboration with foreign agents. In spite of optimistic prospects, due to the lack of experience and broadly treated wordings of the laws, groups and communities have multiple dependencies. Although the values and opportunities of some of them, e.g. scientific groups, may be important for humanity, they depend on limited financing, and the membership can stop after the contract expiry date. There is no Russian science community, which could effectively represent the interests of academicians and scientists.

The tendency of transition from TA to NTA seems to be caused by a lesser degree with the Soviet Union republics separation, and by a greater degree with the decrease of the role of group self-determination and ethnic identity's importance. The poem by the poet Mustai Karim "*Not Russian (ethnic) am I, but I am Russian (citizen)*" (Karim, 2017) reflects the shift of identity towards the integral Russian nation. In the "*internationalist*" USSR ethnicity was a legal marker indicated in the personal documents, issuing from parents' nationality and within the List of Nationalities, so minorities understood its abolition as an attempt to exclude their identity. Then a new system of NCA suggested the voluntary documentary fixation of ethnicity. As a result, the 2002 population census and the New List of Ethnicities by the Rosstat-2010 contain such fantastic entries as the Elves, the Mermaids, the Internationalists, and the Pharaohs. Assimilation and interethnic marriages, growing individualism in former Soviet countries lead, expectedly, to the growing role of personal features not defined by territory or identification with a certain community.

METHOD

Turning to historical materials, laws and other legal acts, describing the types of territorial and non-territorial solutions is aimed at identifying the opportunities that a person can receive due to cultural and national identity in Russia. Special methods we used are interpretation of recent case-study examinations (Baldacchino, 2004; Suksi, 2011; Kymlicka & Banting, 2013) and historical-legal method in law regulations interpretation within the body of the Russian Empire, the Soviet Union (the USSR) and Russian Federation. Conceptual analysis supplemented by legal documents, media materials and arguments of majorities, minorities, title and indigenous peoples.

RESULTS AND DISCUSSION

The notion of "*national autonomy*," accepted in the constitutional law on the example of difficulties and achievements of autonomies in totalitarian socialist and post-soviet Russia, showed the existence of equality problem between the subjects of cultural and legal relations, their constitutional and legal status. Unification of regions in the loss of their status creates social tension and urge to compensate this by shifting to the issues of relations between the minorities that formerly struggled together for autonomy. Hence, the restorations of various TA degrees with decent functioning of NCA are most promising for a large, culturally and ethnically complex Russian society. A graduated evaluation system is needed including criteria from the available international indexes, case studies for continuous survey of the regions' contributions,

majorities, minorities and indigenous people's capability to freely perform their cultural practices.

The narrow interpretation of culture in Russia in comparison with the Austro-Marxist model, the lack of power division between the Russian state and its ethnicities together leads to the frequent exclusion of NCA from the processes that form the law and state policy, concerning the interests of different ethnicities. By application of European criteria (Prina, 2016; Suksi, 2011), national leaders assess status of Russian regions as losing their TA.

Can Russia fully combine TA and NTA? Each demand for autonomy occurs in the historical context with cultural, political, and geopolitical dimensions; various types of autonomy meet various aspirations of those who exercise diverse cultural practices. Although theoretically they do not interfere with each other, as we showed, today there are still no examples of the simultaneous prosperity of TA and NTA in Russian practice. We see an inversion of autonomy forms: TA succeeded during the Soviet age, and now they have deflated; regime change has led to the implementation of the previously rejected cultural autonomy; the only thing in common that they have is greater subordination of autonomy to the government as compared to Europe.

The idea of "*cultural autonomy*" is still not popular and has an undeveloped legal basis. It is practical to further maintain different ranks of administrative-territorial units in Russia (republics, regions, cities of federal significance, autonomous regions). Claims for raising the status should have been justified by economic indicators, which were in no small measure ensured by the growth of national self-consciousness, increased political activity, and the growth of elite's ambitions.

CONCLUSION

Now let us resume the development of Russian interpretations of autonomy and its types clarified during the research. Russian communities actively implement new versions of autonomy proposed by the government, even if they would prefer preserving the former ones. To demonstrate this, we present materials of law, mass media and public discourse under the influence of movements defending their autonomy, although cultural autonomies activity is limited to cultural and education fields. We proved both our hypotheses showing how increasing autonomy-creating civic activism in Russia rises during the government's crises: both pre-revolutionary and perestroika periods actualized the question of how to streamline relations in the conditions of the developed territorial, intercommunity and interpersonal inequality, when the regional elites had to choose one of the parties. For example, Zeki Velidi became the leader of Bashkir Bolsheviks when it became clear that White anti-Bolsheviks will not keep their promises and during the 1990s the presidents of Bashkortostan and Tatarstan drifted several times from support of one political leader to support of another. For instance, in 1990, Gorbachev tried to raise RSFSR republics autonomies, while Yeltsin first resisted in April, but then, being in need of support, offered the regions "*as much power as they can hold*", not sympathizing with cultural autonomy. During the calm periods, the pro-autonomy movements fall despite of dissatisfaction by reducing and replacing autonomies' legal statuses, when achieve an acceptable degree of comfort as it proceeds from Putin's course of societal stability. It means that stable periods that legal contents of autonomy in Russia depend on the central government policy in stable periods, while crises cause ethnic elites and civic activities for obtaining autonomy.

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