

POWER OF THE RUSSIAN MONARCH: ON THE QUESTION OF CIVILIZATIONAL AND CULTURAL IDENTITY OF ITS LEGAL NATURE

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Abstract: The study analyzes the legal nature of the tsar's power as a result of a long civilizational and cultural genesis of the Russian statehood with its source and fundamental features. There are four of them: succession autocracy, legal unlimitedness, tsar's supremacy and sanctity. The study of the proposed problem takes into account the opinions of foreign and Russian authors, who laid the methodological foundations for the study of Russia as a kind of cultural and historical type with its own unique features. Each of these features describes the special aspects of tsar's power, preserving it as a whole, since the diminution of any of its properties leads to the loss of understanding the tsar's power as a legal phenomenon, significantly different from any other versions of the supreme power. The study involves many foreign and Russian authors, who formed the methodological basis of research in Russia as a kind of

cultural and historical type, which has its own unique features that persist today.

Keywords: tsar's power, legal nature, Russian statehood.

1. Introduction

Modern scientists show growing interest towards the pre-revolutionary state-legal heritage. A complex political and legal phenomenon of supreme power, which has developed in Russia for a thousand years and kept its traditional statehood from destruction until 1917, is being studied ever since. The Tsar and their power have always been the subject of attention of publicists, politicians and lawyers who lived in the Russian Empire. Foreign authors are no less active in this regard: they keep offering their theories and expressing their opinions.

Starting from the middle of the XVI century, for almost four centuries, until 2(15) March 1917, the Russian

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throne linked together its state body. It ruled and judged, made laws and formed a dynasty. The Russian crown contributed to the establishment of social estates system and created local governments. It also ruled the church, military affairs, internal public life, and foreign policy. It is almost impossible to find a sphere of activity that would be beyond the influence and attention of the sovereigns.

Without setting a task to grasp such difficult legal phenomenon as the throne of the Russian monarch in all its completeness, this work focuses on its separate aspect. However, it is one of the most significant issues: it is the legal nature of Russian throne essentially associated with the civilizational and cultural identity of the Russian state.

2. Materials and methods

2.1. This paper used normative legal acts from the Complete Collection of Laws of the Russian Empire (CCL RI), the Digest of Laws of the Russian Empire (DL RI) as the sources. These were regulating the 'essence of the Supreme Autocratic Power', establishing the rights and prerogatives of the reigning monarch. Other sources were medieval state letters, the Book of

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Degrees of the Royal Genealogy, the Approved Letter of 1613, and archives.

2.2. The research uses the works of medieval authors. They include journalists E. Erasmus, I. S. Peresvetov, a Greek-Interpreter, hegumen Joseph Volotsky. Among the scientists of the mid XIX century - early XX century, there are such researchers as I. G. Ayvzov, I. S. Aksakov, N. I. Chernyayev, L. A. Tikhomirov, A. Belokurov, S. Gorsky, N. E. Danilevsky, M. K. Leontiev, M. K. Lyubavsky; authors of textbooks and monographs on Russian state law (including M. V. Zyzykin, A. S. Alekseev, B. N. Chicherin, V. N. Gessen, N. I. Lazarevsky, M. N. Zakharov, P. I. Kazansky, and N. O. Kuplevassky). The opinion of the clergy is represented by the works of Archimandrite Constantine (Zaytsev), Archbishop Ioann (Maximovich), Metropolitan Ioann (Snychev), and Archbishop Seraphim (Sobolev). The study also uses the works by modern Russian researchers such as L. E. Bolotin, Korob'ina Yu. A., M. V. Nemytina, V. A. Tomsinova.

More than a dozen foreign authors (G. M. Basile, Bendix R. , W. Sunderland, Zhand P. Shakibi, R. E., Martin, D. M.



Wallace, F. F. Sigel, K. A. Wittfogel) featured in this work.

2.3. This study the civilizational and cultural approach² instead of the formational approach in the historical and legal studies of the Russian statehood. It allowed taking a different look at the concept of its evolution. It came out that in Russia, there is a single legal space formed by its history, religion and geography. It exists between the West and the East. The Russian monarchy is the ancient legal tradition of autocratic rule as the most important state-canonical element of Russian identity.

3. Results

3.1. The emergence of the legal aspect of Russian monarchy and its regulatory framework.

The ideas about the supreme power in Russia being represented by the Tsar continued of the dogma of the Old and New Testaments and the doctrine of the Fathers of the Church. It was developed by medieval scribes and clergy. As the Russian legislation developed, the throne became increasingly associated with the hereditary autocracy of Russian

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sovereigns. This fact was first mentioned in the 'Charter of the Novgorod Prince Vsevolod Mstislavovich, given to the Church of John the Baptist in the Opoki', written in the first third of the XII century. It reads the following: 'It is the great Prince Gavriil, named Vsevolod Mstislavich autocrat...(1103 - 1138)'. This was the way the grandson of Vladimir Monomakh addressed himself³. A little later, in 1157, Andrew Bogolubsky inheriting the right to Vladimir, Rostov and Suzdal Principality from his father, went against common notions about the princely traditions of tribal reign and became the 'absolute ruler' and 'Prince-master of the house' by this 'preparing the system for Ivan III, Vasily, Ivan IV'⁴. The drafters of the Book of Degrees of the Royal Genealogy of the XVI century went even further in their opinions: going deep into the Russian history of the XX century, they pointed to the old Russian princes already being autocratic rulers. Grandson of Saint Olga, Grand Duke Vladimir was called by them as 'equal-to-the-apostles of all autocrats...Tsar and Grand Duke', and his 'God-imitating son and heir' Grand Duke in baptism Georgy

² Nemytina, 2017

³ Addition to AAK, 1846:2

⁴ Korsakov, 1872:106



(Yaroslav the Wise) was called 'Pious autocrat'. In the same way they described the reign of 'Autocrat George' (Yuri Dolgorukov), with whom begins 'the fifth degree, the beginning of the Moscow Kingdom'⁵.

Linking the formation of autocracy with the adoption of Christianity, the Approved Charter of 1598, and then the Approved Charter of 1613 used this concept describing the supreme power of Prince Vladimir, who 'for the sake of expanding his states called himself an Autocrat'⁶. The further listing of the princes and the monarchs ended with mentioning the grandfather of Ivan III, who also 'was named an autocrat'. It is clear that these works and regulations did not directly reflect existing and established property of the supreme power of the Russian rulers. It is obvious that all of them were mentioned retroactively. In law and in practice, the autocracy was a real reflection of the legal nature of the Russian throne and it was mentioned only since the mid XVI century.

The first person who made the most full formulation of the legal idea of Russian throne, openly pointed at its

legal nature and took measures for its practical implementation, was the crowned Russian sovereign and grand duke, who assumed the royal title⁷: Ivan IV Vasilyevich. The basic properties of royal power was expressed in various documents, including correspondence with the royals of Europe. However, the most complete description of these properties was found in the debates with a high-ranking imperial liege man - Prince Kurbsky. He was 'an open supporter of the old', always ready to 'support the legal tribal relations opposite to the developing idea of the state'⁸.

The views of Ivan IV were as follows: the Russian throne was hereditary in the descending male line from the father to his primogen son. Born by the will of god, which was its only unearthly source, the royal power was considered as independent of the human will. Thus, having passed a long way of legislative registration in imperial decrees and manifestos, its concept was in detail reflected in the Complete Collection of Laws of the Russian Empire. In accordance with the provisions of the first chapter, the royal power was represented as historically

⁵ Legend, 1755: 133, 169, 189, 193

⁶ Approved Charter, 1906:23

⁷ Lakier, 1847:4

⁸ Gorsky, 1858:78

developed, justified by religion, legally formulated, inherited⁹ and legally unlimited¹⁰, 'the Supreme Autocratic Power of the Emperor of All the Russias'¹¹, and 'Sovereign Emperor'¹², 'King and Judge of the Kingdom of all the Russias'¹³, sacred and inviolable¹⁴, which also belonged to the legislative power¹⁵, the power of the Supreme and subordinate administration¹⁶, the judiciary¹⁷, as well as the power of the head of the church¹⁸ and head of the dynasty¹⁹. In addition, the sovereign has the right of the supreme military command over all land and sea armed forces of the Russian state²⁰ in its single and indivisible territory²¹ 'to the benefit of the people entrusted to Him and to the glory of God'²². This meant that the legally irresponsible Russian monarch simultaneously and inseparably personified eight types of hereditary royal power.

3.2. The legal nature of royal power.

The normative design of all types of the royal power in Russian monarchy is generally described in the first chapter of the Russian Constitution of 1906 entitled 'On the essence of the supreme autocratic power'²³. It was based on understanding the legal nature of royal power inherent in the legislator, the interrelated properties of which revealing its original content. There are four such properties. The most important is the hereditary autocracy, which means that the royal power is inherited. The power was indivisible and not delegated, it did not depend on anyone and belonged only to the reigning monarch, the undivided owner of the state territory, by right of historically established dynastic inheritance: by right of 'Patrimony and inherited estate'. Its second property was legal limitlessness, which had the same origins that put it above all legal norms except those that it established and strictly adhered to: 'the Russian Empire is governed on firm grounds of laws issued in accordance with the established

⁹ CCL RI, Vol. XXIV. 1832: 578

¹⁰ DL RI, 1832: 1

¹¹ DL RI, 1906:4

¹² Ibid., 2

¹³ Ibid., 4

¹⁴ Ibid., 1

¹⁵ Ibid.

¹⁶ Ibid., 2

¹⁷ Ibid.

¹⁸ CCL RI, Vol. XXIV. 1832: 578

¹⁹ DL RI, 1906: 17

²⁰ Ibid., 2

²¹ Ibid., 1, 5

²² Ibid., 5

²³ DL RI, 1906:1,2



procedure²⁴. The autocratic and unlimited power of the hereditary Russian monarch also possessed the tsarist supremacy, which raised it to an unattainable height in comparison with other types of supreme power. A special feature of the Russian throne was the sacredness that originated from Christian faith in its divine establishment. It determines the inextricable link between the canonical foundations of the tsarist rule and its legislative establishment.

These four properties of the Russian throne are considered fundamental. Violation of their harmony destroys the very meaning of the supreme power of the Russian monarch as the royal power. The first three of them were studied by a number of pre-revolutionary lawyers. The need to study the sanctity of tsarist power as its legal property was mentioned less often. Only P. E. Kazansky stated that this property as well as its unlimitedness, supremacy and autocracy characterizes its legal nature in its indivisible fullness²⁵.

Hereditary autocracy. Besides the historical and religious-ideological reasons, which are not studied in this work, the tsarist autocracy, the 'basic

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dogma of Russian state law²⁶, was a direct consequence of the legal policy of the Russian princes, primarily in relation to the legislative regulation of land relations. Since the mid XVI century, they played a key role in keeping the supreme power in the hands of the reigning monarch as the owner of the state territory and the 'Owner of the Russian land', which had the unconditional right to dispose of it and all its resources. In other words, understanding the supreme power of the Russian monarch as autocratic was not only speculative, dictated by the historical interests of the princely rule and the prince's personal desire to keep hereditary, independent power in their hands. This property was a natural consequence of the princely right of possession of patrimony and public power over their territories, inherited from their ancestors from the time of the specific period. As I. E. Engel'man wrote, 'all the fullness of state power as property belongs to the head of the Imperial House, the reigning sovereign²⁷. A special kind of supreme power was born. It combined the features of private and public law – this was the

²⁴ Ibid., 6

²⁵ Kazansky, 2007:468

²⁶ N. I. Chernyaev, 2011:1

²⁷ Zakharov, 2002:128



conclusion of most researchers of the legal nature of the supreme power of Russian princes. According to many researchers in history and legal sciences, the basis of the supreme power of the hereditary prince is an inseparable symbiosis of the right of private ownership of the land of the hereditary patrimony and the right for public administration.

After the final liberation from the Horde conquerors at the end of the XV century, the right to publicly rule and inherit the state territory of Russia became a sovereign and important property of the legal nature of the supreme autocratic power of the reigning Russian monarch. During the reign of Ivan III and his son Vasily III, the rights of the grand duke to the sovereign disposal of the grand-ducal table and the entire hereditary mass that accompanied their replacement, including hereditary patrimony on various grounds included in the Moscow state, consolidated. According to the new rules of land tenure, the patrimony loses the value of the hereditary property²⁸.

Now the Moscow state and its lands belonged to the Russian Tsar on the right of dynastic hereditary possession, becoming part of his throne. This was the most important reason that led to the formation of the hereditary autocracy of the royal power of the Russian monarch, as long as he inseparably combined the rights of the owner and the state ruler and completely disposed of the 'estates of individuals'²⁹ with 'all the unconditionality of ownership rights'³⁰ in all areas of the Tsardom of Muscovy. It belonged to him simultaneously for being a 'political ruler'³¹ and as the sole owner, making his power supreme, autocratic and legally unlimited.

In 1897, S. F. Platonov first considered and then repeated this idea about the liquidation of patrimonial land ownership two years later in 'Essays on the history of unrest in the Moscow state XVI–XVII centuries'³². It became one of the most important conditions of the state reform, which was carried out by Ivan IV. The oprichnina established by him not only actually and legislatively fixed the restriction of rights to the disposal of land property independent of the state,

²⁸ Korob'lin, 1965

²⁹ Chernyaev, 2011:1

³⁰ Platonov, 2007: 207

³¹ Lubavsky, 2002: 276

³² Platonov, 1937: 138-139

but also made one more important step on the way to deprive the imperial opposition of its material force and political zeal. They became the physical replacement of the large holders of land plots and change of the legal status of landowners by 'busting' of the land, breaking the existing old land ownership, the withdrawal of old and 'reoffment' of the new sovereign's servants'³³. The rights to land belonging to the representatives of the ancient boyar clans, which gave them the best income and significant political capital, were transferred to the service class men of Ivan IV (including those who formed the armed force of oprichniks personally subordinate to the Tsar). In the titles of the Russian monarchy from the first Tsar of the Romanov family to Nicholas II, there emerged a special declarative norm: 'By the grace of God Great Sovereign Tsar and Grand Prince Mikhail Fedorovich, Autocrat of all Russia and many countries the Ruler and Possessor'³⁴.

The autocracy of the Tsar has become one of the fundamental properties of its legal nature, which have no foreign analogues. The grand duke of

Moscow, who took the royal title and united the vast hereditary patrimonial possessions, a number of lands of other owners and conquered territories, acquired a previously unknown exclusive state canonical legal status of the autocratic monarch. The new title had both the dynastic right to inherit the state territory and the right to unchallenged supremacy over the Moscow Kingdom and then the Russian Empire.

Legal unlimitedness. Compared to autocracy, this property of the legal nature of the Russian monarchy is not original, since any supreme power is not limited in all states³⁵. The difference can be found only in the understanding of the source of power and competence of its supreme body, which for the Russian Empire was the autocratic monarch who came to the throne. According to Christian teaching on royal power borrowed in the law of the Muscovite state and Russian Empire, the source of power of the ruling emperor was divinely created institution³⁶. It seems that the difference in the understanding of the source of supreme power should not be decisive for determining the essence of

³³ Sadikov, 1950: 25

³⁴ Berch, 1832:145

³⁵ Alekseev, 1892: 173

³⁶ DL RI, 1832:1; 1906:1



legal limitlessness. However, due to Christianity and the legislation in force at that time, it was wrong. The Russian autocrat could not exercise supreme power, which did not take into account the norms of religious morality, canonical regulations and dogmas of the Orthodox Christianity with its evangelical commandments. It was due to the peculiarities of the Orthodox Christianity, and the Russian Tsar could not but belong to the Orthodox Catholic Greek-Russian church by law³⁷. On the one hand, he was legally unlimited and legally and actually irresponsible to his subjects. On the other hand, the emperor had the duty of royal service, the meaning of which was formulated in article 58 of the Russian Constitution of 1906. The monarch-to-be was to reign 'to the benefits of people awarded to him and for the glory of God, for thou and in the Day of Judgment He will repay him the word blamelessly³⁸. As noted by the drafters of the church textbook 'the law is intended to be a manifestation of a single divine law of the universe in the social and political sphere³⁹.

Thus, the legal unlimitedness of the ruling sovereign had well-established religious and moral limits and the canonical basis, limiting the human will of the Russian monarch to rule, to legislate, and judge without regard to Church doctrine and established in connection with this centuries-old practice of the supreme autocratic power. Any royal will, whatever form it has, as noted by Dzh. M. Bazili, had always been above the law⁴⁰. At the same time, if the king's will came into conflict with faith and historical practices neither his law nor his decree could become a condition of long-term law enforcement practice. Charter 1722 'On the legacy of the throne'⁴¹, adopted by Peter I in violation of the established right tradition of dynastic succession with its inherent primacy as the main condition for the emergence of the right to the throne, can be quite a good example. The charter did not last long and was the subject of sharp dynastic disputes and the source of a number of coups.

This study does not contain the debated whether there has been actual and sustained restriction of royal power

³⁷ DL RI, 1906:5

³⁸ DL RI, 1906:4

³⁹ Righteous Jurisprudence, 2008:4

⁴⁰ Bazili, 2014:71

⁴¹ CCL RI Vol. VI, 1830:497



in the history of Russian statehood and what has been the legal and political consequences of such attempts⁴². Note that they always ended either with a quick return to the original state of legal unlimitedness of the Tsar's power or resulting from well-established debatable views in the historiography of the Russian state.

It is known that Russian history knows only a few unsuccessful attempts to legally restrict the supreme power. One of them was due to Vasily Shuisky's accession to the throne, the condition of which was his oath to adhere to the meaning of the cross oath record⁴³. This record was a specially prepared normative document that limited the Tsar's rights to the sole royal court. According to the chronicler, it caused mass discontent because 'it shouldn't happen in the Moscow state'⁴⁴. The brief four-year reign of Vasily Shuisky ended in 1609 with his forcible taking the vows and his imminent death in a Polish prison.

The second attempt was made in 1610 during the call of the Polish king's son Vladislaw to reign the Russian

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Kingdom. The restriction of his rights was planned to be carried out by convening councils⁴⁵ on the most important issues of state life with the simultaneous signing of conditions for his acceptance of Orthodoxy, the preservation of the Orthodox Christianity in Russia, church property, land, etc. Vladislaw refused to change his faith and was not crowned Tsar.

The third attempt to limit the supreme power of the Tsar was in 1730. This was the time when they invited Anna Ioannovna to reign the country with a condition of signing the 'Conditions' made by members of the Supreme Privy Council (SPC). The text of the 'Conditions' put the law and the collective right of the members of the SPC above the will of the reigning sovereign, and the refusal to implement them in the future provided for an unprecedented sanction for Russia: deprivation of the 'Russian crown'⁴⁶. These conditions violated both the canonical foundations of the Tsar's power and completely changed its legal nature, since "the imperial power in Russia, suggested by the 'Conditions' of

⁴² Shairian, 2018: 186-196

⁴³ CSL and D, Vol. II: 299-300

⁴⁴ Solov'ev, 1993, Vol. VIII:804

⁴⁵ Myakotin, 1894:501

⁴⁶ RGADA, F. 3



the Supreme Privy Council, was therefore not autocratic and not imperial⁴⁷. Moreover, the oligarchic form of government was incompatible with the views of a large group of nobles⁴⁸. At their request, the empress turned down the 'Conditions', and mentioned her title in the Manifesto of Accession to the Throne dated February 28, 1730: 'Anna Empress and Autocrat of All the Russias'. She also stated that 'We are who accepted the autocracy'⁴⁹. The external reasons for the unsuccessful attempts to put the royal power under the control of the interested persons were obviously not the main ones. The crucial role belonged to understanding the legal nature of the Tsar's power as autocratic and legally unlimited, personified exclusively in the person of Tsar, which was ingrained in the consciousness of the Russian people.

The fact that the established historiography does not always allow obtaining a correct assessment of the historical facts and the legal phenomena of the past centuries can be exemplified by the fact that much of the scientific literature believe that the councils of XVI - XVII centuries were a

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representative of the authorities, which made decisions binding on the reign of the monarch. Hence, it was conclude about the form of government existing before the Russian Empire, which was called class-representative monarchy. A similar situation is observed in the study of the period of the early XX century, when the legal limitation of the Tsar's power, according to many researchers, was legally established by the Fundamental laws of the Russian Empire in 1906. However, in the prism of civilizational and cultural approaches, neither the first nor the second example look scientifically justified. Rather, it is a tribute to the Soviet historiographical school based on the Marxist approach to the linear-formational understanding of the historical process and its corresponding assessments of the legal phenomena of the national state.

Thus, the councils that date back to the reign of Ivan IV, have been a temporary law-making institution created by the Tsar's will. They were convened by the monarch; he also regulated the issues brought to their consideration and approved or rejected the decisions on these issues. Dzh. M.

⁴⁷ Tomsinov, 2009: XXXVII

⁴⁸ Manshteyn, 1875: 25

⁴⁹ Manifesto, 1730. Karelian Research Centre of RAS, F. 1



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Bazili assumed that the legislative power of the first Russian monarch 'was never burdened by any intermediate bodies'⁵⁰. This observation should be attributed to both the XVI and later XVII-century councils, which sought to 'restore rather than limit autocratic domination'⁵¹, since it was the king, by virtue of traditional paternalistic notions of his role, who was perceived and acted as an arbiter between different groups, 'preventing exploitation and guaranteeing the highest truth and justice'⁵². In general, the Assembly of the Land and clergy state councils, through which the church supported the autocratic aspirations of Russian princes⁵³, was multifunctional representative institutions for the implementation of the power of the autocratic monarch and the resolution of the most important issues of state, church and public life. The Council of 1598 confirmed the need for the Tsar's autocracy as a form of government for Russia, offering Boris Godunov unlimited supreme power of the reigning sovereign. The Council of 1613, acting in the conditions of the interregnum,

regained the tsarist autocracy lost in the Troubled times in its entirety. This fact justified that the Russian public life in the power of the centuries-old tradition gravitated to other forms of government and they were rejected.

The modernized repetition of the councils of the XVI - XVII centuries was reproduced in Russia in the early XX century at the establishment of the state Duma and giving it and the state Council the functions of legislative bodies. In terms of law, the difference was only in the fact that representative bodies of the early XX century operated on a continuous basis, and the procedure for the adoption of legislative decisions became strictly regulated. The royal legislator determined their convocation by his decree⁵⁴ and established the duration of sessions and breaks⁵⁵. By virtue of article 86 of Russian Constitution of 1906, no law could 'be followed without the approval of the state Council and the state Duma and to perceive the power without the approval of the emperor'⁵⁶. The procedure for adoption of laws and the formal

⁵⁰ Bazili, 2014:71

⁵¹ Bendix, 1980: 338

⁵² Shakibi, 2006:442

⁵³ Vallas, 1914:47

⁵⁴ DL RI, 1906:7

⁵⁵ Ibid.

⁵⁶ Ibid., 6.



elimination the unlimitedness of the supreme power of the monarch from the text of the Constitution of 1906 informed a number of well-known lawyers and liberal politicians that the bestowed constitution that asserted the supremacy of the law and legal unlimitedness of royal persons and their autocracy was adopted in Russia.

In fact, the legal nature of the Russian monarch's power remained the same. For various reasons, many lawyers and politicians ignored the most important fact that the emperor was entitled to independently publish any manifestos, decrees, rescripts and other normative acts regardless of the opinion of the representative authorities, same as before. All of them had the same legal force as the laws. The emperor used the right to supreme autocratic power established by article 4 of the Russian Constitution of 1906, including the case of early dissolution of the [II state Duma](#), accompanied by a [change in the provision on elections to the state Duma of June 3, 1907](#)⁵⁷.

Royal supremacy. By virtue of the law, the royal supremacy was considered as an integral property of the Russian

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monarch, which was formulated by the legislator in article 4 of the Russian Constitution of 1906: 'Emperor of all the Russias has the Supreme Autocratic power'⁵⁸. As for the autocracy and legal unboundedness, Tsar's supremacy had its ideological theological justification in the Christian doctrine and 'was put by the law in dependence of god'⁵⁹. As well as autocracy and legal unlimitedness, royal supremacy could be carried out only by a person who had the exclusive state-canonical legal status of the crowned and anointed monarch, who possessed eight types of power. P. E. Kazansky wrote in his work: 'Adjective "supreme" is used by our laws to refer to a special property of the Imperial Power' because it refers to the legislative regulation of the supreme state administration, which is directly carried out by the reigning monarch and belongs to him in all manifestations of his state power. The manifestation include: 1) legislative provisions; 2) 'the right of extreme decisions', which the monarch takes in 'case of great danger to the state'; 3) the right of 'extraordinary supra-legal decisions, i.e. decisions in cases when the usual order established to meet the

⁵⁷ Anthology, 1990:328-330

⁵⁸ DL RI, 1906:1

⁵⁹ Ayvazov, 1907:10



needs of the state does not achieved the goal'; 4) the right of 'the last decisions in the state affairs when 'the final decision is granted to the supreme power'; 5) the right of 'the highest decisions, or, as the language of laws and state acts says, the highest, such will, to which all subjects and authorities must obey'⁶⁰.

In addition, the difference of the royal supremacy, which was 'the main and quite indisputable beginning of Russian state law'⁶¹, was that its autocratic bearer subordinates not only the highest state power, but also extends the royal supremacy to the tsarist church and dynastic relations. As a result, the power of the Russian autocrat had a higher status than the usual supreme power of the ruling sovereign⁶².

It should be noted that the legislative norms regulating the right of the reigning monarch to personal supreme control were not only the fruit of the development of positive law, but a natural consequence of the national patrimonial view of the hereditary nature of the power of the Russian Tsar and his paternalistic role of the father of a large family-the state. It traditionally saw the

state as the common family and the sovereign's patrimony headed by its sovereign master.

The meaning of the Tsar's supremacy did not change after the introduction of the Russian Constitution of 1906: changes in the order of lawmaking 'without changing the essence of our historical supreme power...put in order the state system, seeking to harmonize the old principles with the improved methods of power...'⁶³. Considering it possible to exclude the term 'unlimited' from the definition of tsarist power, the legislator, however, left the characteristic of its essence unchanged, since the predicate 'Supreme Autocratic...power' was preserved in relation to the Russian monarch's power⁶⁴. In other words, it is power that can not be fundamentally limited neither by its source nor by its legal nature.

In fact, the royal supremacy of the autocratic monarch still had no legislative limits. Even the law on succession to the throne, which established the order of reception of the tsarist power among the members of the royal family and was considered by most

⁶⁰ Kazansky, 2007: 343-348

⁶¹ Sokol'sky, 1890: 63

⁶² Bolotin, 2011

⁶³ Zakharov, 2002:57

⁶⁴ DL RI, 1906:1



researchers of Russian state law as unchangeable, was not and could not be a limitation of its supreme power. By virtue of the inherent autocracy of the reigning monarch, the monarch had the formal right to change this law, but did not, because after the ascension to the throne and sacring according to Article 39 of the Russian Constitution of 1906, he gave an oath to 'observe the above mentioned laws on the heritage of the throne'⁶⁵.

Sanctity. It is the fourth fundamental property, the study of which reveals the legal nature of the Tsar's power in the fullness of its civilizational and cultural identity as the supreme and autocratic power. This power is also legally unlimited and irresponsible. The law recognizes the divine institution as its source.

The study of this property also reveals the closest historical and ideological connection between the religious legal consciousness of medieval Russia and Imperial Russia and the legislative embodiment of the idea of a Christian state as a necessary organizational tool for the implementation of the main goal of

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believers in Christ royal subjects: the achievement of the Kingdom of Heaven. The task of choosing the most favorable conditions for this state life is a priority for the reigning Orthodox monarch. The success of cultural development, economic prosperity, military and political achievements are done in order to resolve this task.

It is obvious that in comparison with other properties of the legal nature of the royal power, the sanctity certainly correlates with the Christian doctrine of the state and the king, and with Russian state law, because the tsarist government itself 'is an institution not only of state but also of church law'⁶⁶. This fact led to the disposition of a number of legislative norms regulating medieval state life, including the relations between the Tsar and the church. The nature and legal semantics of the regulation of these relations was then transferred to the legislation of the Imperial period. A single view of the religious and legal nature of the Tsar's power as to sacred significantly legitimized the rights and prerogatives of the reigning monarch, supporting the people's confidence in their justice and hereditary dynastic

⁶⁵Ibid., 3

⁶⁶ Zyzykin, 1924:174



legality. At the same time, it established the religious and moral limits of his will, consistent with the spirit of Christian morality and the Orthodox Christianity for the royal legislator.

Basically, until the early XX century, the supreme autocratic power was believed to be divinely instituted. On the one hand, this circumstance significantly contributed to the legitimization of state laws, supporting their legal disposition with religious sanction, and vice versa, did not support it if it was inconsistent with church canons. On the other hand, the sacredness of the power of the reigning sovereign gave his highest legal dictates a special mandatory nature. Any normative act adopted by the royal legislator became not only legally binding, but was also considered as an indication of the person clothed with the royal dignity by god himself. The legal duty to execute the state law was thus supplemented by faith in its justice and, at the same time, became a religious duty. The disobedience to the legislative regulations was considered to be the same as perjury before the emperor and the Lord's Anointed, who was sworn

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allegiance in the perception of the hereditary throne.

The sanctity of the Tsar's power gave the legal status of the Russian monarch the exclusive state canonical characteristic, which united in the person of the reigning monarch the secular and spiritual power. This status could belong only to the person at the same time named by virtue of the law the head of church and possessing imperial advantage of the crowned sovereign over whom the church ceremony established by the law as the head of the fifth Russian Constitution of 1906 ('On the holy coronation and sacring'⁶⁷). In other words, the state law gave 'a sanction to the existing church rule of holy coronation and sacring, without which the royal power loses its basis and its meaning, because without them there is no royal power as a sacred rank, but only a simple human power, no different from any other human power'⁶⁸.

The church rank of holy coronation and sacring had a direct legal significance for establishing the limits of supreme power, when in the prayer established by law⁶⁹, 'the Autocrat solemnly declared that He was limited by

⁶⁷ DL RI, 1906:4

⁶⁸ Zyzykin, 1924: 6864

⁶⁹ DL RI, 1906:4



the Law of God', and not by human law. All this indicates the legal feature of the royal power 'as it was developed by the thousand-year Russian history' (Zaytsev, Archimandrite Constantine).

This rite was served for the legitimation of the supreme autocratic power of the person who took the hereditary Russian throne as it was a) publicly affirmed the right of the monarch on his perception from the church, b) indicated the voluntary nature of performing the act, and c) specified his person. As a result, any doubts in the personality of the sovereign coming to the throne and his religious affiliation as a sacred and inviolable person were excluded⁷⁰. The coronation of the holders of the royal throne by virtue of the rules established by the act of succession in 1797 played the role of a legal regulator of dynastic relations, since 'the religious sacred nature of power mainly determined the succession of the ruler'⁷¹. The exclusive state canonical status of the sovereign as a sacred person predetermined their rights to regulate the relations between the Tsar and the church within the limits established by article 64 of the Russian

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Constitution of 1906. This article determined that 'the emperor, as a Christian sovereign, is the supreme defender and guardian of the dogmas of the dominant religion, and the guardian of the faith and everyone in the church of the holy deanery. 1721 Jan. 25 (3718) P. I, introduction. – In this sense, the emperor, in the act of succession to the Throne of 1797 April 5 (17910) is called the head of the church. – 1906 Apr. 23, collection of decrees, 603, article 24⁷².

The early XX century started with the reform of the order of lawmaking. The views of lawyers on the preservation of the sacredness of the tsarist government divided. The convinced supporters of constitutionalism immediately declared that article 4 of the Russian Constitution of 1906, which contained the justification of the supreme autocratic power as divinely instituted ('god himself commands') lost its legal meaning⁷³. Some lawyers continued to defend the sacred character of the Tsar's power as a consequence of its divine source and the unsurpassed supremacy, established by the force of law and 'the Christian, Orthodox Catholic faith of the Eastern confession

⁷⁰ Ibid., 1

⁷¹ Omel'chenko, 2000

⁷² DL RI, 1906:5

⁷³ Lazarevsky, 1913:279



that prevailed and dominated in the Russian Empire⁷⁴. P. E. Kazansky referred to the norms of art. 4, 10 of the Russian Constitution of 1906 and wrote that the doctrine of the unlimited imperial power could not be considered full without taking into account its sacred nature. Comparing different editions of the Constitution, he complained that the name of the first section in the 1832 edition ('On the sacred rights and benefits of the supreme autocratic power') was changed, although 'all the articles that gave the power of the Emperor sacred character, remained, and in the eyes of the Russian people it was still sacred...'⁷⁵.

4. Discussion

4.1. The disputes among Russian authors on the source, the legal nature, rights and prerogatives, and also limits of the supreme autocratic power of the Russian monarch never ceased. They have always been more or less connected with understanding the Russia's place in the world, viewing it as a state with its special geopolitical position between the West and the East that dictated it a special independent role. They also were

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about the ideological justification of Russia's existence and its messianic task known in Russian and foreign historiography called 'Moscow is the Third Rome'. Continuing the idea of medieval authors on an independent path of Russian development, in 1869 N. Ya. Danilevsky scientifically substantiated Russia's key place in the unique Slavic civilization⁷⁶. This approach allowed K. N. Leontiev (the author of the monograph 'Byzantism and Slavdom') to conclude about the identity of the state structure of medieval Russia and its form of government. In this regard, he wrote that 'we have a generic hereditary Tsarist government that is so strong that aristocratic beginning has adopted its service, semi-clannish, mildly clannish, much more of the state than feudal, but absolutely not a municipal character'⁷⁷. I. A. Sikorsky developed the idea of N. Ya. Danilevsky on the cultural and historical types of peoples and their inherent ethnographic features. On the basis of established racial and anthropological differences of peoples, he put forward special features of the psychology of the

⁷⁴ DL RI, 1906:5

⁷⁵ Kazansky, 2007:468

⁷⁶ Danilevsky, 2011:114

⁷⁷ Leont'ev, 1884: 18



Slavs⁷⁸, which affected the choice of a single-power government. It existed in the period from the late IX century to the mid XVI century and differed in legal limitation of princely supremacy up to achievement of the state sovereignty of Russia in 1480 and internal political omnipotence of the Russian monks established as a result of the state reforms of Ivan IV.

The question of the Tsar's autocracy as an integral part of Russian historical life and the state was supported by the Slavophiles⁷⁹. Following the scientists in other fields, the idea of the uniqueness of the Russian state power was supported by well-known pre-revolutionary lawyers P. E. Kazansky⁸⁰ and N. A. Zakharov. The latter argued with his opponents by stating that 'Our state has existed for more than 1,000 years; it seems that we should have any right, any basis of power that needs to be studied, and not just their criticism and praise...a number of our well-known lawyers including Lazarevsky, Gessen, Shalladn, Kokoshkin, and others in their works

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ignore all the features of our Constitution⁸¹. In Soviet times, despite strong resistance, the question of the uniqueness of the origin and evolution of the Russian state of mobilization type arose on a communal basis, where 'public power began to be personified in the prince and the militia⁸². Today Russian identity and the nature of the supreme power are only gaining momentum, increasingly often turning to the study of the origins of Russian history and Russian law.

4.2. Foreign researchers have made a significant contribution to the understanding of Russia and the nature of its supreme power. Some of them prefer the socio-cultural approach in their research⁸³⁸⁴⁸⁵. Other authors preferred the civilizational approach⁸⁶⁸⁷⁸⁸. At the same time, some of them believe that Russia has a thousand-year historical and legal experience of statehood based on the 'old Russian elements'⁸⁹ and in response to the strong pressure of the West and the East, it has managed to preserve its

⁷⁸ Sikorsky, 1895

⁷⁹ Aksakov, 1887: 149

⁸⁰ Kazansky, 2007

⁸¹ Zakharov, 2002:34

⁸² Froyanov, 2008: 377

⁸³ P. Sorokin, 2000

⁸⁴ T. Parsons, 1949

⁸⁵ R. K. Merton, 1968

⁸⁶ O. Shpengler, 2003

⁸⁷ Toynbi, 1987

⁸⁸ S. Khantington, 1994

⁸⁹ M. Rassel



traditional identity and carry it through the centuries to the present time despite the external forms of 'being European' and flirting with its Eastern neighbors⁹⁰⁹¹⁹². Others believe that this is not the case, that Russia is focused on a marginal Eastern civilization⁹³, even if it is closer to Europe than to Asia than to the 'Muslim world or Confucianism'⁹⁴. It is widely believed that the clash of European (Romano-German) civilization with Russia is embedded in the very idea of a conflict of civilizations⁹⁵⁹⁶. It is often noted that the geopolitical features of the development of the Russian state had a strong influence on the formation of ideas and practices of the organization of supreme power of Russian princes, which was directly involved by Byzantium⁹⁷⁹⁸ and the church⁹⁹¹⁰⁰.

4.3. The most important role in the development of the legal idea of the Tsar's power as unlimited and autocratic was played by normative acts and works of Russian sovereigns. A special place among them is intentionally disclosed

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correspondence of Ivan IV with prince Kurbsky, the Queen of England, and kings of Sweden and Poland. The relations in law between the Tsar and the church were first regulated by law in the resolution of the Council of 1551 by introducing into it the text of the sixth novel of the Byzantine emperor Justinian as their basis and the development of special norms fixed in this act. The views of the Russian emperors on hereditary autocracy were expressed in the charter of 1922 by Peter I 'On the succession of the throne', Paul I in his act of succession in 1797, in a number of decrees and manifestos of Russian emperors, the texts of which were included in the Complete Collection of Laws of the Russian Empire, becoming the basic rules for the preparation of Fundamental laws in the editions of 1832 - 1906.

4.4. Understanding the essence of the power of the Russian monarch, its historical and legal uniqueness, and ideological connection with the canonical institutions that reveal its source is impossible without referring to

⁹⁰ P. D'yukes, 1998

⁹¹ I. Madariaga, 1983

⁹² M. Bassin, 2015

⁹³ K. Vittfogel', 1957

⁹⁴ D. Liven, 1999

⁹⁵ Khantington, 1994

⁹⁶ Toynbi, 1987

⁹⁷ F. Dvornik, 1956

⁹⁸ Khanak, 2014

⁹⁹ M. Janet, 2007

¹⁰⁰ D. Sivel, 2012



the works of clergy. They start from the messages of the monk Philotheus, the author of the concept of 'Moscow-the Third Rome'¹⁰¹, higumen I. Volotsky with his teachings about the attitude to the Royal lords¹⁰², publicists E. Erazm (40-60s of the XVI century) and I. S. Peresvetov (XVI century), St. John of Tobolsk (1708), and Metropolitan Filaret¹⁰³. The latter summed up the views of the spiritual fathers of the Orthodox church in his work 'Christian doctrine of Tsar's power and the duties of the faithful'. The ideas of their predecessors about the spiritual view of power in its historical and legal manifestations were developed by archbishop Seraphim¹⁰⁴, archbishop Ioann of Shanghai¹⁰⁵, archimandrite Constantine¹⁰⁶, and metropolitan Ioann of Ladoga¹⁰⁷.

5. Conclusion

The middle of the XVI century was marked by the emergence of a new legal phenomenon for the development of medieval Russia: the power of the Russian monarch. Its civilizational and

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cultural identity has yet to be fully assessed, which will obviously entail a scientific reassessment of many ideas about the genesis of Russian statehood. An attempt to study the legal nature of the Tsar's power with its fundamental properties (autocracy, legal limitlessness, royal supremacy and sanctity) is the first step in this direction. All these properties emerged from ancient Russia and the Christian worldview of the Russian people and are inextricably linked with each other and with the sole power of Russian princes, who combined the right to public power and hereditary possession of patrimonial territories in one person. All the properties of the Tsar's power are ideologically based on divine revelation, establishing its unearthly source. The legislative framework is formed by numerous regulations of Russian monarchs, codified in the first third of the XIX century. It can be argued that the Fundamental laws of the Russian Empire as amended in 1832 and in 1906 resulted from centuries of legal practices reflected in the current legislation of the

¹⁰¹ Philotheus, XVI

¹⁰² Volotsky, 1547

¹⁰³ Drozdov, 1886

¹⁰⁴ Sobolev, 1939

¹⁰⁵ Maksimovich, 1936

¹⁰⁶ Zaitsev, 1970

¹⁰⁷ Snychev, 1995



Russian historical view of the supreme power, its nature, objectives and legal capabilities of its hereditary successor.

The simultaneous combination and sole application of the rights of the hereditary owner of state territory and state power by the crowned monarch has no analogues either in the history of the Western countries or in the history of the East. This is the legal uniqueness of the supreme autocratic power of the crowned Russian sovereign. Repeated attempts of its legal restriction, belittling the royal supremacy and sanctity during almost four hundred years of its existence were doomed to failure because they caused a negative reaction of the people's Christian sense of justice and legal understanding. Only in March 1917 the traditional form of government in Russia was forcibly abolished, the Russian monarch was deprived of the right to the throne and then killed.

The increase in the number of scientific works about the historical past of the Russian monarchy indicates that interest grows from year to year. New sources are found, new historiographical facts are established, which are considered from a different angle. Attention is drawn to previously

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unexplored sides of such a complex legal phenomenon as the Tsar's power. The conclusions are drawn from the civilizational and cultural approach to the study of Russian state law, which previously remained unclaimed or were simply impossible. As a result, the scientific knowledge has emerged that can be involved in the improvement of the modern model of Russian statehood, which clearly needs modernization.

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