

Секция «Юриспруденция»

Understanding open government as a tool for modernisations. USA experience in postsocialist context: contemporary political and socio-legal research.

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Russian president Dmitry Medvedev has delivered his annual speech to the Federal Council on December 23, 2011. He said, an open government is an effective way to get feedback that allows us to assess the efficacy of government policy, to build the work of the government in a fundamentally different way, to make it modern, relying on local initiatives. One of the first projects will be an Internet portal where each user will be able to describe the most pointless, suffocating bureaucratic procedures, he added. The officials who are the "competition winners" will face repercussions, and the absurd procedures will be repealed, the president, pointed out. "Overall, I believe we should use all modern information technologies to improve public communication," he said. "I am giving this my utmost attention. We need to use everything we have, and create the things we don't have". [3]. Dmitry Medvedev discussed relevant issues such as modernising Russia's political system and pursuing the country's economic and social development with members of the Public Supporters' Committee on February 5, 2012. He proposed that Russia could consider joining the Open Government Partnership, an international initiative designed to make government more transparent and effective. "I believe it stands to reason for us to consider participation in this [initiative]," Medvedev said, adding that it also sets out to fight corruption, increase civic participation, and improve governance standards. "Let's look into it," he said. [7].

On February 8, 2012, Dmitry Medvedev signed Executive Order On a Working Group to Draft Proposals for Developing the Russian Federation's Open Government System. The working group's purpose is to develop civil society institutions, ensure coordination between the state authorities, public organisations, movements and expert bodies, and develop the Open Government system. Chief of Staff of the Presidential Executive Office Sergei Ivanov will head the group, and Presidential Aide Arkady Dvorkovich and Presidential Adviser Mikhail Abyzov will act as his deputies. The working group has been instructed to work together with the Government to draft and submit proposals on the following Open Government priority areas by April 15, 2012: social policy; protecting citizens' rights; business development and competition support; innovative development; long-term macroeconomic and budget policy; human resources development; performance indicators for the Open Government system; regional policy and decentralisation of power; infrastructure and transport; sports and tourism policy; development of systems for the electronic provision of state and municipal services, and development of modern communications systems. The working group has also been instructed to take into account proposals by the Open Government international initiative and partnership in its work [1].

The Open Government Partnership (OGP) is a new global multilateral initiative that aims to secure concrete commitments from governments to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance. In the spirit of multi-stakeholder collaboration. The OGP will formally launch in September 20,

2011 in New York, when the governments on the Steering Committee will embrace the Open Government Declaration and announce country action plans. We invite you to stand with us in September, signal your intent to join OGP, and deliver your own commitments when we meet again in Brazil in March 2012. Steering committees are composed of government (Brazil, Indonesia, Mexico, Norway, Philippines, South Africa, United Kingdom, United States) and civil society organization Africa Center for Open Governance (Kenya), Instituto de Estudos Socioeconômicos (Brazil), Instituto Mexicano para la Competitividad (Mexico), International Budget Partnership (international), MKSS (India), National Security Archive (U.S.), Revenue Watch Institute (international), Transparency and Accountability Initiative (international), and Twaweza (Tanzania) These organizations are helping direct the work of OGP and are playing a key role in evaluating national action plans. The Open Government Partnership now has 52 participating countries. The USA, together with the other founding Members led the way with the launch of their National Action Plans in September 2011. The other governments are scheduled to present their plans at an April OGP meeting in Brazil. The OGP co-chairs, (United States and Brazil) asked governments to update their progress with developing action plans.

The day after his inauguration, President Obama promised a new era of “openness in government.” He signed an executive order Presidential Memorandum on Transparency and Open Government. “We will work together to ensure the public trust and establish a system of transparency, public participation, and collaboration,” he wrote in to federal agencies. “Openness will strengthen our democracy and promote efficiency and effectiveness in Government”. [5, 20,417-18]. Professor of law Beth Simone Noveck served on the Obama-Biden Transition team’s Technology, Innovation, and Government Reform Policy Working Group. She is the author of *Wiki Government: How Technology Can Make Government Better, Democracy Stronger, and Citizens More Powerful* (Brookings Institution Press 2009, 224pp.), which appeared 2011 in Arabic and Chinese and in an audio edition. She directed the Institute for Information Law & Policy and the Democracy Design Workshop at New York Law School. She is founder of the "Do Tank," and the State of Play Conferences. She has experienced with collaborative tools through the “Peer to Peer-to-Patent: Community Patent Review” pilot project (started in 2005, U.S. Patent and Trademark Office), where the intention was to open up the American patent process to public participation. That has inspired similar projects in the U.K. and Japan. Noveck has taught in the areas of constitutional law, innovation, intellectual property, and courses on electronic democracy and electronic government. She was the United States deputy chief technology officer and director of the White House Open Government Initiative . She had made speech in Moscow on November 12, 2011 at the 170th anniversary of Sberbank, Russia’s largest and oldest financial institution about Crowdsourcing Governance and The Obama administration’s Open Government Initiative.

The Noveck’s book *Wiki Government* gives us ideas about how to open government to innovation, more open model of decision-making, using effective strategy online democracy and digital technology for citizen participation. "The Internet has taught us that good ideas come from everywhere. Wiki Government translates that lesson for policymakers. With a compelling blend of high theory and practical know-how, Beth Noveck explains how political institutions can directly engage the public to solve complex problems and create a better democracy." (E. Schmidt, chairman and CEO, Google Inc). Chapter 8 provides important

lessons and suggests, that these lessons could be useful practically for other policy, law and technology areas. 1. Ask the right questions. The more specific the question, the better targeted and more relevant the responses will be. You need to break problems into chunks and provide the tools and resources for people. 2. Ask the right people. Creating opportunities for self-selection allows expertise to find the problem. 3. Design the process for the desired end. The choice of methodology and tools will depend on the results. The goals should be communicated up front. Groups need to know what is being asked of them and you need to break processes and problems down into discrete steps. 4. Design for groups, not individuals. “Chunk” the work into smaller problems, which can easily be distributed to members of a team. Working in groups makes it easier to participate in short bursts of time and is demonstrated to produce more effective results. 5. Use the screen to show the group back to itself. If people perceive themselves to be part of a movement, they will work more effectively together across a distance. Here are mapping and other visual tools for people to see who is doing what and to enable individuals to nudge one another toward desired outcomes. 6. Divide work into roles and tasks. Collaboration requires parceling out assignments into smaller tasks. Wikipedia works because people know what to do. 7. Harness the power of reputation. Most good collaborative platforms have ratings systems that enable participants to rate each other’s submission, use these tools to filter and prioritize. 8. Make policies, not websites. Improved practices cannot be created through technology alone. You need a systems-based approach that looks at the problem as a whole. 9. Pilot new ideas. Use pilot programs, competitions, and prizes to generate innovation. 10. Focus on outcomes, not inputs. Design practices to achieve performance goals and metrics. Measure success. Have a clear idea of what you want to accomplish. 11. Look at the bigger picture and redesign governance. 12. Use technology together with law and policy. 13. Empower individuals in collaborative democracy processes [4, 128-136]...

Together, these recommendations seem to be a powerful strategy to implement collaborative democracy initiatives in post-socialist countries. These lessons could be considered the foundations of a new design for government. This design science would promote citizen participation and collaboration among individuals with expertise in certain topics and who want to share their knowledge. To sum up, it should be noted that the convergence of technologies and law is universal, strictly determined by factors of society, is a powerful global process, which resulted in the need to change the important social and legal fabric of society. The combination of ICT and the law leads to the recent dynamics, adaptability, greater openness to innovation and modernization trends. [2, 52-54].. We should pay attention of the importance of public-private partnerships, political, socio-legal, institutional, technological and other aspects implementation of government 2.0 (opengov), legal protection of personal data, access to information, the legal framework of management in these areas. Important for Russia, Ukraine, Kazakhstan and other post-socialist countries in view of the international experience is the need to adhere to during the information and communication modernization of society, government and law the principles rule of law, human rights, democracy, social orientation, humanism. Modernization of society, politics and law in the first place, should be based on new information and communication technologies, that provide the dynamics of its development and integral effect. Post-socialist countries must will open up the doors of online democracy, government and open society technologies. That will be integrate public participation and public policy. It is time to online communicate the politicians, government officials with citizens, using

blogs, social networks, solving problems with the new collaborative tools. There are plenty of people with expertise to share if their knowledge can successfully be connected to those decision-makers who need it. Collaborative governance is an idea, whose time has come. Hence we simply have to apply this mechanism to future post-socialist country. Integrating, coordinating and structuring the legal standards, citizen participation, collaborative decision-making, technical expertise of public experts, ICT technology can make government both more open and more effective, help meet public challenges and promote human and social development

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