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The Principle of Powers Separation and Its Role in The Functioning of The State Mechanism

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Abstract

The present paper examines the key features of the mechanism of the state and summarizes the legal views of political scientists and lawyers on this phenomenon. The essence and content of the principle of separation of powers are explained, and the main political and legal positions are given, according to which the principle of separation of powers is structured in a comprehensive manner, including the principle of unity of state authority and a system of checks and balances, ensuring the interaction of the legislative, executive and judicial branches. The need to apply the principle of separation of powers for the effective functioning of the state mechanism is analyzed.

1. Introduction

The state, as a diverse social system with its components, is developing its potential in the process of life. The impact of the state on the main sectors of society, on citizens and on social communities should be targeted and productive. The management of public affairs in the system of a legal state requires a good level of organization, literacy and professionalism. It implies the permanence of the functioning of the state, which needs to carry out strategic and tactical tasks in a timely manner and to this end to unite the efforts of many organizations and popular masses. Moreover, it is advisable to use the resources of society and apply certain objective principles for the precise organization of a well-ordered coherent system, which, as society develops, becomes increasingly complex and refined, but does not violate the unity of state power, the unity of its strategic goals and the directions of activities of all state bodies.

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2. Main Part

The State Mechanism

The state performs its functions through a certain mechanism, through which it can successfully carry out its tasks and achieve certain objectives, without which it is neither theoretically nor practically unthinkable. And that mechanism is called "state mechanism".

So, what is meant by "state mechanism"? Kushnir (2011) considers that "the mechanism of the state is a system of state organizations through which state power is implemented, provided state management of the society". He also notes that "a special state apparatus is established for the performance of state functions. It is a complex system of state organs characterized by state authority and structure. Each organ of the state is granted competence - by the circle of rights and obligations (scope) established by law" (Kushnir, 2011). In turn, L.A. Morozov understands the mechanism of the state in two aspects: "in the narrow sense – as organs of the state and in the broad sense – as a set of state bodies and organizations". She noted, however, that state organizations were included in the machinery of the state, since the state was not only a political organization but also had economic, cultural, social and other functions (Morozova, 2010).

Generalizing the above, we can conclude that the mechanism of the state can be called "state authority" or "public authority". It is established to perform the functions and tasks of the state.

We turn next to revealing the essence of the state machinery. The system of state bodies is organized according to the hierarchical principle of subordination of subordinate bodies to higher ones. This is due to the need to express the sovereign authority of the state in the form of the subordinate powers of the various state organs, headed by the highest organs, which in turn are vested with independent powers of the state. In the hierarchical system of state bodies, institutions and officials, each body (or official) has its own powers corresponding to its place in the system and coordinated with those of other bodies. For some collective actors, usually a state body, the concept of competence, i.e. the existence of authority in a certain sphere, which is assigned to the state bodies for the performance of their functions, is applied. For others – the organizational and legal form, the content of which is defined in the charters and constituent documents of the various economic entities, by means of designating the purpose, the means of management, etc. shall be defined (Vengerov, 1996).

The Principle of Powers Separation

The mechanism of a state governed by the rule of law is based on the principle of the division of state power into three separate branches: the legislative, executive and judicial branches. Each authority has its own functions, is independent and does not interfere in the affairs of the other. But still they interact with each other within the limits of their powers, thus preserving the principle of unity of state authority.

Legislative power should be understood as an independent branch of state power formed directly by citizens, with the right to exert a decisive influence on people's activities and behaviour through laws and other regulations, as well as representing the interests of citizens and individuals both within and outside the country.

The legislative branch embodies the organized will and power of the entire people of the country. In this connection, it has a «monopoly» on the publication of normative legal acts in the form of laws, on their further improvement, modification or cancellation. In this way, the authority exercises strategic management of economic, social and political processes, shapes and solidifies the most

fundamental values and long-term standards of public and social life, which are taken as a starting point by all the other branches of government (Kazanik, 2015).

Unlike the primary legislative power, the executive (administrative) power is by its very nature secondary, derivative. The administration is always in a subordinate position, there is someone who has power over it. The tasks of the administration are to carry out the tasks entrusted to it by the holders of power and to resolve private matters accordingly. The executive branch is subsidiary in nature. All actions and acts of the authorities concerned are based on the law, must not contradict it, and are aimed at enforcing the law. Hence their name is executive.

The organs administering justice are the third branch of state power, which, as already stated, is of particular importance in the machinery of state power. The special role of the court is determined by the fact that it is the arbitrator in legal disputes. Only the judiciary, not the legislature or the executive, administers justice. This guarantees the independence of the courts, the rights and freedoms of citizens and the state as a whole. The role of the judiciary in the separation of powers mechanism is to restrain the other two powers within the framework of constitutional legality and law, primarily by exercising constitutional oversight and judicial control over those powers. Charles Louis de Montesquieu wrote: “If the legislature and the executive are united in one person or institution, then there will be no freedom. There will be no freedom if the judiciary is not separated from the legislative and executive powers”.

But what would it mean if all branches of government belonged to the same person or authority? What consequences would that have? The main purpose of the separation of powers is to prevent the usurpation, monopolization of power within a single body or agency, which inevitably leads to despotism, suppression of human rights and freedoms. The legislative, judicial and executive bodies are autonomous, independent of each other. A civil servant may not hold positions in different branches of government at the same time, which are mutually supervised and restrained. Interference by one branch of government in the competence of another is not permitted.

Linked to the separation of powers is the rule of "checks and balances", which means that the state apparatus is constructed so that each branch of government balances the other two and does not allow them to expand their powers. Thus, for example, the President of the Russian Federation may, in certain cases, dissolve the state Duma, and it may initiate the process of removing him from office, i.e., by impeachment, if he commits high treason or other serious crime. In other words, it can be said, that the Duma and the President restrain and balance each other (Constitution of the Russian Federation, 2014).

The historical experience of the organization of power in the USSR serves as a vivid example for the analysis of errors due to the refusal to implement the principle of separation of powers. A. Migronyan wrote back in the 1980s about the practice of the organization of power in the Soviet Union: “In the absence of a permanent, professional legislature, separation of powers and a mechanism of checks and balances in our political system, the concentration of power in a single centre, in the party bodies at various levels and in the bureaucratic hierarchical structure of the organization of the process of governance, our society has found that at every level of power, the highest leader... became practically an impostor at every level of power, in every large and small institute of society”. During the Soviet period, the state power exercised as a whole (here and the unified competence of the Councils and their bodies) invariably led to the absolute domination of the executive power and its apparatus, concentrating all the functions of the state power in the latter (legislative, executive, judicial) and ultimately dictatorial usurpation of power by the ruling party elite (Migronyan, 1988).

3. Conclusion

In summary, it can be concluded that the separation of powers between state organs occurs due to the diversity of the social, political, economic and other tasks of the state within the framework of a single state authority. At the same time, each body is assigned a specific range of tasks to be carried out by the state authorities in accordance with its competence. Thus, the separation and mutual restraint of powers serve as additional legal guarantees to prevent the development of authoritarian and totalitarian tendencies in the State, ensuring freedom in society and the protection of human and civil rights and freedoms.

References

Kushnir I.V. (2011). Pravovedenie. Institut ekonomiki i prava imeni Kushnira.

Morozova L. A. (2010). Teoriya gosudarstva i prava. 4th edition - M.: Exmo, - p. 105.

Vengerov A.B. (1996). Teoriya gosudarstva i prava: Uchebnik dlya yuridicheskih vuzov, - p. 290.

Kazanik A.I. (2015). Konstitucionnoe pravo.

Constitution of the Russian Federation (2014) - T. Russia. - Art. 93.

Migronyan A. (1988). Mekhanizm tormozheniya v politicheskoj sisteme i puti ego preodoleniya. p.105.