

PRINCIPLES OF SEPARATION OF POWERS AND MUTUAL COOPERATION

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Abstract:

This article discusses the principles of the division of state power, their mutual relationship, the functions of restraining each other within their powers, their historical origin, their mutual relations and the sphere of influence on each other.

Keywords: Parliamentarism, state power, legislative power, executive power, judicial power.

Introduction

In the system of large-scale reforms being implemented in our country to democratize state power and administration, the democratization of the legal status and activities of state authorities, strengthening their responsibility and independence, occupy a central place.

In democratic states, the state mechanism is built on the principle of separation of powers. According to this principle, state power is divided into legislative, executive and judicial branches, which are independent of each other. At the same time, the unity of state power is also recognized, based on the fact that the only source of power is the sovereign people. This norm is strictly stipulated in Article 7 of Chapter 2 of the Constitution of the Republic of Uzbekistan, which states: "The people are the only source of state power. State power in the Republic of Uzbekistan is exercised only by bodies authorized by the Constitution of the Republic of Uzbekistan and laws adopted on its basis, in the interests of the people. The usurpation of state power powers, the suspension or termination of the activities of government bodies, the formation of new and parallel structures of government in a manner not provided for by the Constitution are considered unconstitutional and constitute grounds for liability in accordance with the law" [1].

Literature review and Research Methodology

It should be noted that the idea of unity of power in the process of historical development was not interpreted only from the point of view of the interests and sovereignty of the people. On the contrary, this idea served more to justify the sole rule of one person, that is, the ruler.

The interpretation of the unity of state power based on the organizational-legal approach is characteristic of totalitarian states, according to which state power means the unity of the groups that have achieved it and the struggle of groups that are not in power, and only one organ system as a body of state power.

The principle of the separation of state power has a long history of its formation as an important method of ensuring the legal and moderate organization and functioning of power. In particular, the initial ideas aimed at dividing the functions of state power, introducing a rational division of labor between state bodies, and limiting power from the perspective of human freedom were put



forward in antiquity and the Middle Ages by thinkers such as Plato, Aristotle, Epicurus, Polybius, Cicero, and M. Paduansky [2].

Analysis and Results

If the legislative and executive powers were concentrated in the hands of one person or institution, there would be no freedom, because there would be a danger that the head of state or the Senate would pass cruel laws for their cruel application. There would also be no freedom if the judiciary were not separated from the legislative and executive powers. If it were one with the legislative power, the life and liberty of citizens would be subject to arbitrary judgment, since the judge is the legislator. If the judiciary were one with the executive power, the judge would become a tyrant.

“If these three powers were concentrated in the hands of one person or institution: the power to make laws, to execute decrees of a general nature, and to judge crimes or private disputes, then all would perish.”[3]

The peculiarity of Montesquieu's ideas was that, without denying the leading position of the legislative branch among the branches of state power, he advocated the independence of each branch [4]. These ideas were later further developed by such thinkers as A. Hamilton, J. Madison, J. Jay, T. Jefferson, and B. Franklin, who were the ideological founders of the US Constitution. Their special merit was that with their ideas they raised the system of "mutual checks and balances" of the branches of power to the level of a specific principle. In their opinion, state power should be divided in such a way that each branch has the opportunity to control another branch, and if one or another branch of power wants to expand its powers, this will necessarily entail the appropriation of the powers of another branch. The founders of the US Constitution, departing from the ideas of parliamentary supremacy that prevailed in England, attached special importance to the equality of the branches of state power. In particular, J. Madison expressed the following opinion on this issue: “The concentration of all power in the hands of the legislators leads to tyranny, just as the appropriation of all power by the executive branch” [5].

In general, it is no exaggeration to say that to this day the principle of separation of state powers has passed several stages of its formation in the process of historical development [6] and many tests and has become an indispensable condition and sign of the construction of a democratic legal state. The content and essence of this principle can be briefly expressed as follows: firstly, - state power is divided into legislative, executive and judicial branches, which are independent of each other; secondly, the separation of powers does not mean the complete separation and opposition of the branches of government, but rather their foundation in a single source - the people's power, their mutual solidarity, mutual restraint within the framework of the constitution and laws, and the maintenance of proportionality and balance in the system of power; thirdly, the activities of the executive branch are subordinate to the law, that is, its activities and decisions are based on the law, are aimed at ensuring its implementation, and cannot contradict the law; fourthly, the judiciary is subject only to the Constitution and the law, it is inappropriate to subordinate it to the decisions of the executive branch, and only the judiciary resolves legal disputes and administers justice; sixthly, one person cannot work in several government bodies. To date, the principle of the separation of powers has been universally recognized by all democratic countries. This principle was enshrined as a fundamental principle even before our



country adopted its Constitution in Article 5 of the Law “On the Fundamentals of State Independence of the Republic of Uzbekistan” of August 31, 1991. Later, it was also reflected in Article 11 of the Constitution of the Republic of Uzbekistan. According to it, “the system of state power of the Republic of Uzbekistan is based on the principle of the separation of powers into legislative, executive and judicial branches” [1]. In this regard, as the First President of the Republic of Uzbekistan I.A. Karimov noted, “In accordance with the Constitution, a system of state power bodies has been created that is completely different from the previous totalitarian regime and is based on the principle of the separation of powers, namely legislative, executive and judicial branches” [7].

At this point, it is worth mentioning the leading position of the parliament in the system of power. In our opinion, the leadership of the parliament means, first of all, that the parliament determines the powers of other branches of power, and that strategic decisions of great importance for the life of the state and society are made only by the parliament. From this point of view, the provisions of the Constitution of the Republic of Uzbekistan are of great importance.

In particular, according to it, determining the main directions of the domestic and foreign policy of the Republic of Uzbekistan, adopting state strategic programs, determining the system and powers of the legislative, executive and judicial bodies of the Republic of Uzbekistan are among the powers of the Oliy Majlis of the Republic of Uzbekistan. Another noteworthy point: in the Constitution, the chapter dedicated to the Oliy Majlis is placed before the chapters on other branches of power. The First President of the Republic of Uzbekistan, I.A. Karimov, noted this: “This reflects our attitude towards the law and the body that adopts it” [8].

It is worth noting that the development of the structure of state power is determined not only by the creation of organizational foundations, the strengthening of relevant provisions in the Constitution and laws. The political and legal level of members of society, their activity, spiritual maturity and the degree of development of civil society institutions are among the factors that significantly affect the development of parliamentarism. In other words, the emergence and development of the structure of state power is a natural process and a specific law that occurs at a certain qualitative stage of the development of the state and society.

Conclusion

Based on the above thoughts and considerations, we can conclude that the principle of separation of powers is closely related to the idea of parliamentarism. In due time, the idea of parliamentarism laid the foundation for the emergence of the principle of separation of powers. The effective implementation of the principle of separation of powers has been of great importance in the establishment and development of parliamentarism. The principle of separation of powers and parliamentarism are important rules of the legal organization of state power, without which it is impossible to imagine democracy, the effectiveness of the state mechanism, the rule of law and civil society.

REFERENCES

1. O‘zbekiston Respublikasining Konstitutsiyasi. - T.: O‘zbekiston, 2023.
2. История политических и правовых учений. //Под ред. В.С.Нерсисянца. - М.: ИНФРА - М, 1998. -С. 50-70



3. Монтескье Ш.Л. Избранные произведения. М.. 1955. -С.289-290
4. Мухамедов Ў. Ҳокимиятлар бўлиниши ва қонун устунлиги. Ҳаёт ва қонун. 2001. № 6. Б.10-12
5. Федералист: Политические эссе А.Гамильтона, Дж.Медисона и Дж.Джея. М., 1993. С-331-332.
6. Терехов В.И. Становление и развитие концепции разделения властей// Разделение властей: история и современность / Отв. ред. М.Н. Марченко. М., 1996. С.8
7. Каримов И.А. Хавфсизлик ва барқарор тараққиёт йўлида. Т.6. - Т.: Ўзбекистон, 1998. -В.138.
8. Уразаев Ш.З. Конституция независимого Узбекистана. - Т.: Адолат, 1993. -С.14

