



Theoretical and Legal Aspects of Power Division

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Abstract: This article discusses the origins of the principle of separation of powers, the separation of powers in our country, their mutual restraint and interdependence.

Key words: Legislative power, executive power, judiciary, separation of powers.

Introduction

One of the factors determining the democratic nature of any state is the implementation of the principle of separation of powers in society, that is, the implementation of the separation of powers. The idea of the separation of powers is one of the most advanced historical ideas put forward by the great minds of mankind. The views of the English philosopher John Locke and the French philosopher Charles Louis Montesquieu on the formation of the idea of separation of powers are of great importance.

According to the English philosopher J. Locke, "the division of power into legislative, executive, and federal forms is one of the most important means of ensuring human rights. While acknowledging the interdependence of these authorities, Locke emphasized the superiority of the legislature over the executive and did not specifically recognize the judiciary as an integral part of the executive." [1]

According to the French philosopher Montesquieu, in a just state, power must be not one, but three independent powers - the legislature, the executive and the judiciary. Their accumulation in the hands of any body or individual in any form undermines the common good, leads to abuses and is incompatible with the political freedom of the individual. The merging of the legislature and the executive undermines the rule of law, and if judges are not only involved in the judiciary but also in the legislature, human lives can become victims of injustice. .

Another thinker, Jean-Jacques Rousseau, is known to have been more radical in his views on the state and law than Montesquieu's political views in general. He goes beyond the ideas of his predecessors and bases his theory on the idea of people's sovereignty. Russo's great contribution to political and legal thought was that he was one of the first to understand the difference between the state and civil society and to seek to shed light on it.

Thus, in the seventeenth and eighteenth centuries, the idea of the separation of powers was developed and formed as a single, complete doctrine, which began to have a great positive effect on the political and legal thought and practice of statehood at that time.

According to the lawyer Sh.Shaydullayev The task of this principle is to prevent the concentration of state power in the hands of one person or body. Concentration of power in the hands of one person or body is a direct threat to democracy and human rights and freedoms, leading to the establishment of an authoritarian regime. "[2] "



The separation of powers means that the legislature, the executive and the judiciary are independent within their jurisdiction and cannot interfere in each other's affairs," he said. At the same time, the powers of these bodies are such that they cannot act independently of each other, and state power is exercised in the process of cooperation of three independent sectors "[3].

This is legal. For example, the legislature will not be effective if the executive and the judiciary do not work together. At the same time, it is almost impossible to administer justice without the legislature and the executive.

In particular, the opinion of the legal scholar HT Odilkariyev on the division of powers is as follows: The relationship between the above-mentioned authorities should be established in such a way that each of them, together with the independent performance of state functions, balances each other with the help of its own legal means, a single institution of power. In turn, the legislature has the power to oversee the implementation of laws by the executive, and the government is accountable to parliament. "[4]

In our view, the best distribution of power across sectors is through a "system of checks and balances." This system does not allow any authority to dominate other authorities, to violate the law and the constitution. It should be noted that the principle of separation of powers is most clearly reflected in the US Constitution.

According to the legal scholar ZM Islamov, "The separation of powers in a particular state is provided by the means that form the mechanism of manifestation of a system of restraint and balance in the implementation of a single state policy. Typically, the following is a summary of such tools

1. Constitutional consolidation of the principle of separation of powers, clearly defining the boundaries of the rights of each authority within the framework of the interaction of the three branches of government, setting limits and means of balance. In this case, it is important that the constitution in a particular country is adopted by a specially formed organization (constitutional assembly, convention, constituent assembly, etc.). This is necessary so that the legislature does not determine its own rights and responsibilities.

2. Legal limitation of the scope of authority of the branches of government. The principle of separation of powers does not allow any branch of government to have unlimited powers: these powers are limited by the constitution. The constitution also provides for the creation and maintenance of conditions that ensure the main function of the legislature - the dignity of the individual (civil, political rights and freedoms).

3. Mutual participation in the staffing of government agencies. This tool is to participate in the formation of senior officials of the executive branch of the legislature.

4. A vote of confidence or distrust. A vote of no confidence or no confidence is a majority vote in the legislature to approve or disapprove of a government's political course, action, or bill.

5. Right of veto. A veto is an unconditional or delayed ban by one authority. The head of state also has the power to veto decisions of the upper house and the lower house in a bicameral system.

6. Constitutional control. Constitutional oversight means that there is a special body in the state that is called upon to ensure that no government violates the requirements of the constitution.

7. Political responsibility of high-ranking government officials. Political responsibility is a constitutional responsibility for political activity. Impeachment is a widespread form of political responsibility, consisting of the prosecution of high-ranking officials and the prosecution of their offenses.



8. Judicial review. Judicial control over the activities of any state authority and administration (with the right to make a final decision on the constitutionality of their actions), the decision of which adversely affects the legal status of the person, human dignity "[5].

It is no exaggeration to say that the separation of powers means the formation of a system of constraints and equilibrium.

James Madison, the chief "architect" of the US Constitution and later its fourth President, said: can be considered as a sign "[6].

In terms of legislation, according to Article 11 of the Constitution of the Republic of Uzbekistan, the system of state power of the Republic of Uzbekistan is based on the principle of separation of powers into legislative, executive and judicial branches.

Article 112 of the Constitution of the Republic of Uzbekistan enshrines the independence of judges in our country and their obedience only to the law, not to interfere in their activities in the administration of justice. Judges may not be senators, deputies of representative bodies of state power, members of political parties, participate in political movements, as well as engage in any other paid activities other than scientific and pedagogical activities also reflected in the Constitution in accordance with the principle of separation of powers.

It should be noted that the President is responsible for the coordinated functioning and cooperation of public authorities, which guarantees the observance of the rights and freedoms of the head of state and citizens, the Constitution and laws of the Republic of Uzbekistan. In this sense, as noted by academician AH Saidov, "the President must ensure the consolidation of the state, the stability and mobility of the mechanism of state power" [7].

In conclusion, it should be noted that the principle of separation of powers ensures the balance and equality of public authorities. But for this to happen, it must be introduced purposefully. The rational implementation of this principle prevents the establishment of dictatorship in the state by any body or person, ensures the ideal balance of public administration, and prepares the ground for the effective functioning of state bodies.

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