

Parliamentarism as a legal concept in the field of sustainable management

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Abstract. The paper focuses on prospect directions for strengthening the implementation of sustainable development through the legal concept of parliamentarism. The author concludes that parliamentarism can be perceived as a legal concept in the field of sustainable management, since it is intended to contribute to the creation of mechanisms used to counteract the usurpation of power by the bureaucracy and to increase the efficiency of the legislative process.

Keywords: parliamentarism, legal concept, sustainable development, management

1. Introduction

First of all, the fundamental principles of regulation of sustainable development are established at the international level. They were formulated at the United Nations Conference on Environment and Development in 1992 in Rio de Janeiro (Brazil), reflected in the adopted *Declaration on Environment and Development*. They were further discussed at subsequent international conferences of the United Nations in 2012 and 2016. It is noteworthy that the Declaration does not contain a definition of sustainable development. But based on the goal of establishing a new, equitable global partnership by creating new levels of cooperation between states and key sectors of society, the Declaration establishes such broad principles of sustainable development, which can be perceived not only in the context of environmental protection. The Declaration establishes the need to eradicate poverty, eliminate unviable models of production and consumption, deepen scientific understanding, create an open international economic system, maintain original cultures of the traditional population, prevent wars, etc.

In the Russian Federation, the Presidential Decree of April 1, 1996 N 440 *on the Concept of the Transition of the Russian Federation to Sustainable Development* was issued to implement the idea of sustainable development. It establishes that the main areas of Russia's transition to sustainable development are: (a) creating a legal basis for the transition to sustainable development, including the improvement of current legislation, defining economic mechanisms for regulating environmental management and environmental protection; (b) developing a system for stimulating economic activity and establishing limits for responsibility for its environmental results; (c) assessing the economic capacity of country's local and regional ecosystems; (d) determining the permissible anthropogenic impact on them; (e) developing an effective system of promoting ideas of sustainable development; and (f) creating an appropriate system of education and training.

We believe that creating a legal framework for the transition to sustainable development is unthinkable without an effective lawmaking process, adequate popular representation, which can be achieved through using the legal construction of parliamentarism.

2. Materials and Methods

When conducting the research, the following documents were used: (a) international documents dealing with issues of sustainable development and parliamentarism, (b) normative legal acts regulating the status of parliaments in various countries. Also, we extensively relied on the practice of their implementation, as well as scientific insights into the institution of parliamentarism. Such methods of scientific knowledge as a formal legal method, the method of comparative law, hermeneutics, analysis, synthesis, and the method of dialectics were applied.

3. Results

In conditions of strengthening the authoritarian principles in the Russian statehood in recent years, quality of the adopted laws suffers a lot, in our opinion. They are developed without having a proper discussion, giving rise to contradictions in legal institutions, are criticized by industry experts, and do not contribute to the real implementation of the tasks of sustainable development, respectively.

Directly in the environmental field, the principle of sustainable development is enshrined in the basic laws. For example, in the Forest Code of the Russian Federation of December 4, 2006 No. 200-FZ, the first basic principle of forest legislation is sustainable forest management. The Federal Law of April 24, 1995 No. 52-FZ "On the Animal World" proclaims the principle of ensuring the sustainable existence and sustainable use of the animal world. However, in the opinion of researchers, irreparable damage has been caused to many elements of ecosystems on the territory of Russia, taking into account only the legal basis of this problem [1, 2, 3].

In other areas, sustainable development is also mentioned in separate regulatory acts, but it is obviously not implemented. For instance, the prohibitively swollen government procurement legislation creates significant government overhead and preserves the possibility of buying goods, works, and services using personal connections with competent legal support. In conditions of self-financing of universities and the need to preserve the number of students enrolled, education often turns into a profanation. Corruption crimes can be treated with a conditional punishment, there is a lack of real tools to compensate for the damage caused to the state. Also, legal entities created through the adoption of laws (state corporations, state campaigns) are characterized by high corruption potentials in their organizational and legal forms. There are more examples extensively described in the literature [4, 5, 6]. There is a strong feeling that certain double legal standards are established in the country. It is especially evident when there is a certain strict proclamation of a new legal norm, but it is presumed in advance that this norm could be applied in a completely different, even corrupt way. S. A. Denisov states that this is a slogan of the modern authoritarian state: "Friends are everything, enemies are the law" [7].

In this context, various scientific concepts that suggest ways to decentralize management processes are of great interest. Accordingly, within the framework of constitutional law, the theory of parliamentarism is to be "reanimated," in our opinion.

4. Discussion

In the Soviet period, the concept of "bourgeois" parliamentarism was considered in sufficient detail from critical positions. In the 90s, the idea of parliamentarism was supported, but it later gave way to the concept of a strong state, "a single vertical of power." At the same time, the idea of parliamentarism is designed to resist the arbitrariness of the executive branch and can be quite effective for balancing the power levers of modern Russia.

The term "parliamentarism" itself is found in the works of both pre-revolutionary authors and Soviet scientists, in modern jurisprudence, as well as in the advanced foreign literature. However, no universal definition of this concept has yet been developed. Quite often, parliamentarism is defined as

a special system of organizing state power, structurally and functionally based on the principles of separation of powers and the rule of law, with the leading role of parliament in order to establish and develop relations of social justice [8, 9]. An indication of the “leading” role of parliament is a vulnerable place in such definitions. Since this may cause an association with a parliamentary form of government or with some dominance of parliament over other branches of government.

In general, parliamentarism is defined through the categories of “regime” [10, 11], “forms of state leadership of society” [12], “parliamentary form of government” [13, 14], “political system” [15], “systems of state leadership of society” [16], “a certain scale of social values” [17], “political institution” [18], “state system” [19, 20], “a complex of theoretical concepts, legislation, legal relations” [21]; “a set of ideas and experience of representative realization of the people’s power through parliament” [22]; “a socio-political and ideological movement” [23]. However, perhaps the most common option considers parliamentarism as a “special system of organization of state power” [24].

In all these cases under consideration, the authors speak about completely different facets or incarnations of parliamentarism. Without claiming absolute fidelity of judgment, we consider it possible to consider parliamentarism in constitutional law in four manifestations: 1) as a theoretical concept, incorporating scientific ideas about how parliamentarism should ideally manifest itself; 2) as a special system of organizing state power, reflecting the essential role of parliament in a particular state in practice; 3) as a legal institution, i.e. a set of legal norms governing a high status of parliament in a state (and in this sense, parliamentarism is consonant with parliamentary law); 4) as a principle of the state structure (a “hidden” constitutional principle). At the same time, the second semantic meaning of parliamentarism is central (as a special system of organizing state power), since the remaining manifestations of parliamentarism are derived from it. Scientists consider a number of features in the organization of state power when studying parliamentarism. It is the peculiarities of organizing state power that form the very basis of the legal regulation of parliamentarism in this or that country.

Summarizing the views available in the legal literature, we consider it logical to designate the following qualifying signs of parliamentarism: (a) the rule of law; (b) separation of powers with the parliament’s clearly defined and real powers; (c) parliament’s participation in the formation of executive, judicial, and other branches of government; (d) accountability of the executive power to the parliament; 5) a special status of a deputy with a free mandate and responsibility under the law; 6) a multi-party system; 7) independence of the judiciary branch, as well as its interaction with legislative and executive branches to ensure a balance of state and legal structure. In our opinion, these signs characterize effective execution of powers, allow to provide a stable, internally regulated mechanism for stable development of the state, when parliament interacts with other branches of government.

Exploring parliamentarism, we cannot ignore the often-negative attitude towards parliament. Citizens of many countries are outraged by populist promises of deputies, corruption scandals associated with their participation, lacking responsibility, parliamentary immunity, etc. Particularly strong disappointment among the population in parliamentary institutions is observed in countries that have relatively recently embraced democratic values. Professional lawyers also denote a number of criticisms devoted to parliaments around the globe, even in the countries with established democratic traditions. For example, such moments are described: lobbying the interests of narrow social groups in parliament; slow parliamentary procedures; unprofessional deputies; delegated lawmaking; too high role of executive authorities in developing new bills; using deputy powers in order to build a personal career, etc. However, with all its flaws, parliamentarism is still of tremendous value, it predetermines the existence of discussion in the system of government institutions and presupposes the existence of legal mechanisms for the opposition’s influence on political decision-making by the government elite. Other state bodies or institutes operating within the authoritative apparatus (public chambers, Internet interaction with the population, advisory bodies) are not able to resist the usurpation of power in their own hands by the very social nature.

Therefore, the institution of parliamentarism must be developed and improved, but we must take into account both positive and negative manifestations of parliaments' activities and prevent both derogatory and overly elevated positions of the representative body in the system of separation of powers.

5. Conclusion

Thus, in the meaning we understand, parliamentarism can be perceived as a legal concept in the field of sustainable management, since it is intended to contribute to creating mechanisms used to counteract the bureaucratic usurpation of power and to increase the efficiency of legislative processes. The dignity of the concept of parliamentarism is that it is not focused on parliament as such, but it affects the relationships of all branches of government.

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