

Human rights protection: the Genesis of public authorities of entities in the Russian Federation

Protección de los Derechos Humanos: La Génesis de los Poderes Públicos de la Federación Rusa

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Received: 20/07/2017 • Approved: 15/08/2017

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ABSTRACT:

The rights and freedoms of man and a citizen is a scientific and practical problem requiring constant attention of science and practice. The complexity and ramifications of the mechanism of protecting human rights and freedoms in the Russian legal system requires an analysis of the functioning of federal and regional instruments in its provision. The bodies of the subjects of the country play a special role. In the process of studying, universal principles of scientific cognition were applied: philosophical categories of essence and phenomena, general scientific methods of research (logical analysis and synthesis, functional and historical and legal methods). In order to ensure human rights problems effectively in the constituent entities of the Russian Federation, legislative (representative) bodies of the constituent entities of the Russian Federation have been created. It is necessary to expand the list of types of citizens' appeals to the executive bodies of the subjects of the Federation. In modern conditions, it is important to establish constitutional (statutory) courts in all constituent entities of the country and grant them the power to resolve cases

RESUMEN:

Los derechos y las libertades del hombre y ciudadano - un enorme problema científico y práctico que requiere una atención constante de la ciencia y la práctica. La complejidad y la ramificación disponible en el sistema legal de Rusia, el mecanismo de protección de los derechos y libertades del hombre y ciudadano requiere un análisis del funcionamiento de las herramientas federales y regionales en su software. Una función especial es interpretada por los órganos de las regiones del país. En el proceso de escribir el artículo usado los principios generales del conocimiento científico: las categorías filosóficas de la esencia y fenómeno, los métodos científicos de investigación (análisis y síntesis lógica, funcional e histórica y los métodos legales). Con el fin de proteger mejor los problemas de derechos humanos en las regiones de Rusia establecido los órganos legislativos (representativos) de los sujetos de RF. Es necesario ampliar la lista de quejas de los ciudadanos a las autoridades ejecutivas de la Federación. En las condiciones actuales, es importante el establecimiento de los tribunales constitucionales (autorizados) en todas las regiones de la Federación y

related to the protection of political rights and freedoms of a person and citizen in the entities of the Federation. In order to implement the principles of organizational accessibility and efficiency of the institution, the commissioner is required to empower the regional human rights commissioners to consider complaints against decisions and actions (inaction) of officials of territorial bodies of federal executive bodies exercising their authority in the territory of the relevant constituent entity of the Russian Federation. The need to combine federal and regional mechanisms for the protection of human rights and freedoms is conditioned not only by the federal nature of Russia, but also by the task of ensuring the unity of the legal status of the individual with the permissibility of various mechanisms for its provision and implementation.

Keywords human rights and freedoms, constitutionalism, subjects of the Russian Federation, legislative (representative) bodies, executive power, Human Rights Ombudsman, court, protection mechanism

la potenciación de la resolución de los casos relativos a la protección de los derechos y libertades del hombre y de los ciudadanos en la Federación políticos. Con el fin de poner en práctica los principios de la disponibilidad de organización y funcionamiento del Comisionado se requiere para dotar a los defensores del pueblo regionales competentes para conocer de los recursos contra las decisiones y acciones (inacción) de los funcionarios de los órganos territoriales de los órganos ejecutivos federales, ejercer su autoridad en el territorio de la asignatura correspondiente de la Federación Rusa. La necesidad de una combinación de mecanismos federales y regionales para la protección de los derechos y libertades del hombre y del ciudadano determinada no sólo por la naturaleza federal de Rusia, sino también la tarea de asegurar la unidad de la situación jurídica de una persona si la admisibilidad de una variedad de mecanismos de su mantenimiento y aplicación.

Palabras clave los derechos humanos y la libertad, el constitucionalismo, los sujetos de la Federación Rusa, legislativo (representativo) órganos del poder ejecutivo, el Defensor del Pueblo, el Tribunal, el mecanismo de protección

1. Introduction

In modern reality, the human rights idea has no practical meaning until it has become a universal value. In the international community special respect is enjoyed by states that are able to ensure human rights through their own internal mechanism [1]. The formation of a legal federal state, the protection of human and civil rights and freedoms, and the strengthening of legality presuppose the formation and effective functioning of the relevant authorities not only at the federal level but also at the regional level. Among them, an increasingly worthy place is occupied by the bodies of state power of the subjects of the Russian Federation. In our country, the development of the institution of human rights and freedoms was very difficult. For example, for the Soviet regime, throughout the entire period of its existence, the basic values of human rights were grossly violated, legal doctrine denied their natural and inalienable character. The consolidation of a broad list of socio-economic, political and personal rights in the constitutions of the USSR in 1936 [2] and 1977 [3] years was of a fictitious, demagogic nature.

An important "mechanism" for protecting the rights of citizens at that time was not formal "democratic" state bodies (judicial power, prosecutor's supervision), but party bodies. However, in this case, the person who appealed for help could only hope for a solution to his problem, because the party official could, if desired, with the help of "telephone law" order a specific civil servant to sort out the matter on the merits, or could refuse assistance [4].

In this article, the authors attempted to characterize the history of the formation of state authorities of the entities of the Russian Federation in the field of human rights protection.

In the conditions of the federal structure of the state, the obligation to protect the legal status of the individual is imposed not only on the federal, but also on the regional level of power relations. Protection of the legal status of the individual in the subjects of the Federation can be more adequate to the interests of citizens. Obviously, law-making and law-enforcement mistakes can be avoided only by analyzing historical patterns and experience and the correct vector of further development can be determined.

2. Methodology

In the process of writing the article, universal methods of scientific cognition were applied. Specificity of the theme was conditioned by the use of formal legal, historical legal and

comparative legal methods of research. Thus, the formal legal method was used to determine the methodological aspects of the formation and development of public authorities of the entities of the Russian Federation in the field of human rights protection. The historical and legal method helped to study the historical patterns of the genesis of state authorities of entities in the field of human rights protection.

The empirical base of the research was made up of domestic and foreign literature on the domestic theory and history of the state and law, materials of round tables and scientific and practical conferences.

3. Results

The situation with human rights in the USSR began to change only in the course of "perestroika", with recognition of the need to form a rule-of-law state. With the collapse of the Soviet Union and the formation of independent states, a new stage of reforms in the field of human rights began. The consolidation of the foundations of the legal status of the individual reflects a fundamentally new concept of human rights in Constitution of the Russian Federation (1993), the relationship between man and the state in comparison with that embodied in the previous union constitutions, Russian and "autonomous" constitutions of the Soviet period. The modern theory of human rights is based on international legal standards that establish general legal mechanisms of individual rights and freedoms that determine the minimum level. This process was initiated by the Declaration of Human Rights [6], which, in its turn, entailed the complete renewal of Section II of the Constitution of the RSFSR (Russian Soviet Federative Socialist Republic) in 1978. [7]. "State and Personality". The concept of human rights, which is the basis of the Constitution of the Russian Federation of 1993, is based on the following principles [8].

1. Refusal from the class principle in securing the legal status of the individual. This principle was the most important in the realization of socialist doctrine in the Soviet Union.
2. Recognition of the rights and freedoms of each individual person. In the socialist conception, the center of gravity was transferred to the collective subject. This saw the advantage of a socialist system based on the principles of collectivism, of the bourgeois system with its individualized man, the alienation of people.

It is characteristic in this respect that, unlike the previous revolutions, during which the Declaration of the rights of man and citizen were proclaimed, the formation of a "socialist" state in Russia was marked by the Declaration of the Rights of the Working and Exploited People.

3. Recognition of a person, his rights and freedoms as the highest value. These basic norms-principles are included in the basics of the constitutional system and are included in Chapter I of the Constitution.
4. Recognition of basic human rights and freedoms inalienable and belonging to everyone from birth (part 2 of a clause 17 of the Constitution of the Russian Federation).

In the Soviet Union, the theory of inherent human rights was rejected as bourgeois, based on idealistic, not materialistic ideas. At the same time, this position of the school of natural law, which is basic in the field of human rights, is universally recognized. It is reflected in all international human rights instruments.

5. The principle of priority of international human rights law.

The rights and freedoms of man and citizen are recognized and guaranteed in the Russian Federation in accordance with generally recognized principles and norms of international law and in accordance with the Constitution (Part 1, Article 17).

It should be noted that universally recognized principles and norms of international law in the field of human rights have a direct effect on the territory of Russia and do not need a mechanism for implementation.

In 1993 the Constitution of the Russian Federation, the separation of powers at the regional level proved to be fixed indirectly. Therefore, this question required clarifications in the legal positions of the Constitutional Court of the Russian Federation, which considered the regional level of regulation of the separation of powers in relation to the federal level [9].

In the late 1990's - early 2000's. The main substantive aspects of the separation of powers relating to the independence and interaction of public authorities were provided in the constituent entities of the Russian Federation on their own. The federal center participated in these processes in a minimal way. Assistance from the federal government bodies was reduced to a regulatory impact on the organization of state power at the regional level. The federal nature of Russian statehood provided a rather flexible approach to this sphere, creating prerequisites which, due to certain historical circumstances, were not used to the extent necessary to form effective checks and balances and mechanisms for the separation of powers in the entities of the Federation. Relying on a certain political force and using freedom from federal influence, the regional legislature could more or less fully implement the three classical functions of parliament in the 1990s: representative, legislative, control. In particular, the legislative bodies of state power of the constituent entities of the Russian Federation had preferences in the sphere of implementation of constituent and personnel powers, and the date of elections of the head of the entity of the Russian Federation was appointed on the basis of a resolution of the legislative body of this subject of the Russian Federation, and the head of the subject of the Russian Federation did not have a similar right to appoint the date of elections to the legislature [10].

At the same time, the relative "freedom" of the legislative power in the system of separation of powers of the entities of the Russian Federation did not ensure that it was the dominant position in the system as a whole: the constituent powers of legislative bodies were counterbalanced by the constitutional responsibility applied to them by the executive and judicial authorities. So, in certain cases, the prescheduled termination of the powers of the legislature was proposed by dissolving the head of the entity of the Russian Federation.

The regional executive power in the system of separation of powers before 2004 also had sufficient independence. It was guaranteed by direct elections of the head of the entity of the Russian Federation, as well as the ability of the head of the entity of the RF to independently determine the list of bodies related to the relevant branch of power, and to form the supreme executive authority [11].

The system of checks and balances was supplemented by the approved procedure for involving state authorities and officials in constitutional responsibility: the entities of the Russian Federation were endowed with sufficient powers in this sphere, which then gradually narrowed. However, these rudimentary forms of separation of powers were not supported by the judicial branch of power. In the judicial practice of the constituent entities of the Russian Federation, there has been a tendency, and still today, that the disputes over competence and application of measures of constitutional responsibility are resolved by federal courts of general jurisdiction, since not all constituent entities of the Russian Federation have constitutional (statutory) courts [12]. Such a position, does not contribute to the effectiveness of checks and balances and devaluates the very principle of the separation of powers at the regional level.

As for modern institutions for the protection of human rights, it should be noted that the practical implementation of the theory of separation of powers, the expansion of state and administrative activities have led to some "separation" of the individual from the state, to the emergence of contradictions between their mutual interests. In addition, factors such as the low level of the legal culture of the majority of the population (including ignorance of not only international normative acts, but also domestic legislation), the workload of courts of general jurisdiction, the existence of elements of arbitrariness in the practice of executive bodies, etc., appearance of the institution of the Commissioner for Human Rights in the Russian Federation [13].

In December 1993, the Constitution of the Russian Federation finally consolidated the institution of the Ombudsman, defining in item "d" part 1 of Article. 103 that the appointment and dismissal of the Commissioner for Human Rights, acting in accordance with the Federal Constitutional Law, belongs to the jurisdiction of the State Duma of the Federal Assembly of the Russian Federation.

Drawing attention to the development of constitutional justice in the entities of the Russian Federation, it should be noted that at the initial stage of its formation, the bodies of constitutional judicial jurisdiction were created only in individual republics (the first in December 1991 the Constitutional Court of the Republic of Dagestan was established) [14]. This body was also formed in a region that does not have the status of a republic (Charter Court of the Sverdlovsk Region) in May in 1998. The starting point of its occurrence is considered to be only in 1918. After that, the entire history of the development of constitutional justice can be divided into five stages: 1) 1918 to 1922; 2) 1922 to 1933-1936; 3) 1936 to 1988; 4) 1988 to 1991; 5) 1991 to present [16].

4. Conclusion

In Russia, a system of bodies and officials responsible for ensuring and protecting human rights and citizens has been created. In a broad sense, this is, on the one hand, a system of state, law enforcement and human rights organizations, such as the ombudsman, the court, the police, the prosecutor's office, etc. [15].

On the other hand, this system of public human rights organizations, such as, for example, the Committee for the Protection of Consumer Rights, the Bar, various public associations and movements. There are also public councils (chambers), committees, commissions and other similar entities created both under the President of the Russian Federation and in the executive bodies in the entities of the Federation, and others. But both state and public human rights organizations share a common goal - the protection of human rights and citizenship. At the same time, it is possible to find out a certain specificity in the tools of human rights activity of the state power of the subjects of the Federation: subordination in relation to the federal center; Interaction with local authorities; Feature of the status of the subjects of the Federation of a particular species [17].

To differentiate the powers between the levels of public authority, an inventory of the list of authorities of the constituent entities of the Russian Federation could be made. To do this, it is necessary: 1) to specify the wording of authorities, excluding duplication and vagueness; 2) ensure the compliance of revenue sources with expenditure obligations.

Recognizing the fact that a full restoration of the system of separation of powers in the Russian Federation will be possible only against the background of a general democratization of the political system and overcoming the authoritarian tendencies of recent decades, it should be emphasized that some preliminary measures in this direction could be carried out even in the current political and legal framework [18]. Without refusing to strengthen the executive power, he could be countered by the strengthening of parliamentary control at the regional level, which would make the work of the executive itself more effective. Further, to optimize the legislative cooperation of all branches of power in the entities of the Russian Federation would allow the adoption of a law on normative legal acts.

Thus, before the adoption of the Constitution of the Russian Federation in 1993, the model for the separation of powers and public authorities in the field of human rights protection, functioning at the regional level, had the following features:

- the Federation's decisive influence on the system of organization of state power in entities of the Russian Federation that did not have the status of nationalities -state education;
- B) the political and legal independence of the republics in the establishment of public authorities and the implementation of the separation of powers;
- C) distinguished the system of checks and balances by a preponderance in favor of the legislative

- authority of the entities of the Russian Federation;
- D) a partial imposition on regional bodies of state power of functions not peculiar to the branch of power to which they belonged;
- E) undevelopment of the institutions of constitutional control and responsibility of state authorities at the regional level.

Acknowledgements

The work is performed according to the Russian Government Program of Competitive Growth of Kazan Federal University.

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Revista ESPACIOS. ISSN 0798 1015
Vol. 38 (Nº 57) Year 2017

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