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Content and concept of legislative power

Research of legislative issues has cognitive, academic, and political nature. Article discusses the concept, theoretical and practical consideration of contents of the legislative power. The legislative power is considered as an independent branch of the government which appoints the order, the progress and the conditions of implementation of different relations that are important to the public. While studying the peculiarities of legislation in literature on law, an approach to the concept of legislative «branch» was formulated. The structural elements of legislative power is investigated with specific examples.

Key words: power, state power, division of power, legislative power, subject of power, content of legislative power, the peculiarities of legislative power.

The roots and the ways of development and continuation of state power is one of the large, complex, the most important and significant issues in current science of law, in particular the theory of state and law.

State power in the state theory of Kazakhstan has not been fully scientifically investigated. For a full discussion of all the state power power, first, we need to consider power as a social category and define its meaning and contents. Power is when a certain entity (individual, group, organization) in society obeys the will and interests of another entity (individual, group, organization) and glorifies its behavior.

There are lots of types of power that are spread in a mankind society. In particular: tribal power, economic power, the power of public organizations, parental power, religious power, and there is a power among them that takes a special place in society, widespread, hit by the current step in our country, that the government expand the schedule of political power.

Political power in its main legal sense is a state power and is carried out with the direct participation of the state. In particular: tribe, tribal power, economic power, the power of public organizations, parental power, religious power, among them we can point out the schedule of political (state) power that takes a special place in society, widespread, hit by the current step in our country, that expands the government's lattice. The political power in main legal sense is the governmental power and is carried out with the direct participation of the state.

One of the most important symbol of state is power. Because each state is reflected in different types, for example, in one government governmental power is directed to state violence, in second, government influenced by hidden force, as well as the third that is in organizational character [1; 6]. Authority power is physical power, the force of arms or reputation, the power of the mind can exist. Kyrgyz writer, humanity's Aitmatov states: «I know there are two branches of government. One serving the people, the second seed themselves and their relatives from the shadow of the descendant power. The first — a deep sense of responsibility, honesty, later there is selfishness» [2; 68]. «Everyone must know how to perform their work faithfully. Let head of the state control it, let workers work, let father be father, as the child be the child. If this simple principle of stability is violated, the state spoils internally. Big fire starts with a brief fire from small flint stone», said the great philosopher Confucius [3; 27].

According to the constitution, the adoption of division a government into legislative, executive, and judiciary branches the will of Kazakhstan people is the sole source of state power. Here, the function of state organs started out on the basis of the will of the population. The system of governmental power is based not only on the principles of horizontal but vertical distribution. However, there is a difference between state and local power in specific limits. Kazakhstan's Constitution and relevant laws identified limit to public power in solving their local problems, on the one hand, and on the other hand, in interfering with the upper body's work and in not spoiling the principle of unity.

The principle of separation of powers is important because it establishes the mechanisms of the organization of the state. Recognition of this principle by the Constitution of the Republic of Kazakhstan means that it takes into account the historical experience of democratic states and follow the direction of the rule of law.

According to the Constitution of the Republic of Kazakhstan it is stated a formation of democratic society and legal state in its historical future and program, that is to say, it is assumed that important social relations and government relations are also managed by the law. Power should only be carried out in accordance with the law, it is possible only in case of power separation as a principle of social democratic structure of power. Kazakhstan holds an important position in the process of formation of the state legislature.

The phrase «legislature» in the true sense means government, which is involved in the formation of the law and the power. Law as usual is explained as an act, for individuals and organizations, each and everyone has the same binding, legal action was interpreted as an act of containing sense.

To save the instructions of the law is based on the special structure of the state. Legal entity that receives special attention in the first place and then transferred to the nature of the relations arising from the implementation of the provisions of the law.

The legislature can be carried out in various subjects. For example, the laws which are given by monarch to the population are clear the majority. But it is mainly appropriate to historical development of reconstruction of the society. The current «legislative power», which has supreme legal force acts collectively describes formation of an organization. These include: the parliament, the Supreme Council, the Congress, the National Assembly, the Diet, the Grand National Assembly and others. Each entity exercising the legislative power of the State. He may be an individual or a body dealing with the issue of the law.

Legislative act can be performed directly by the people through a referendum. In this case referendum is as an act of law, here it is the result of the will of the people.

As far as laws may be formed on the basis of different actors — the people, the collective body, the act of individual it's necessary to talk about their power and limit. Here, based on the proposals of various scientific approaches on how to apply to the referendum when the parliament has potential to be the head of state about the legal requirements for admission to the acts will be focused on the status and rights and other issues.

Legislature as a legislative entity, which is not understood when the activity of law-making and law should be distinguished from other acts of perception. As another example, one can mention a call, the conclusion, non-regulatory agreement, and many others. Law possesses characteristics of duty and defend. But there is no equality between laws. Among the acts the Constitution or laws of the so-called basic law will be disconnected. These acts have supreme legal force as comparison with other laws regulating relations.

Laws function under the Constitution and they are accepted on the basis of it to perform items of Constitution. The Constitution, the Declaration and other founding acts are accepted by legislative power. Nearly every first tests itself as the rule of law as authenticated by the complexity of the phenomenon and its «laws of the entity» as a description of its contents showed that it is not open.

The level of language and culture, of course, as the concept «the legislative power», personal, private phenomenon was developed profoundly. However, it can not be analyzed without connecting with other public events. «Legislature» hiding behind the term, such as the law and the power to restore the contents of which are necessary to determine the contents of the basic concepts. Philosophy subordination of power is determined by the power in connection with the will of the head. In political science, psychology and sociology power functions as the relationship between government entities. Law recognizes the government in the form of a subjective right [4; 11].

State power is considered as typical to the state government citizens (subjects) as the subordination of subjective law. Power as a form of implementation of the laws, regulations, court judgments and decisions shall be recognized. Legislation can be considered as a legal right. The right of the legislative power in the adoption of laws subjective obliged to abide by the law in all other subjects, the instructions contained in the legislation (regulations) implementations. The laws are obliged to their bodies that adopted them.

Power phenomenon is varied. Power is necessary requirement of functions of organized social life, all spheres of society. Unity and order are based on power, power is realized by power, force and law. It is always subjective, i.e. it is given as kind of capability and possibility of defining affection to person's behavior by certain tools. In Soviet period sociology resources power issues was determined up to Marks tradition, force power was mainly considered. Power was explained as force for citizens from governments side, of course it is contradictory to its significance. Nowadays it is well-known that force is not the meaning of power. Power is not as always, constantly and not as force which applied to all subjects, but realized as a last tool of affection.

Sociology resources in the content of power subject interaction are separately given. There fulfilled by defining subject, object and content to set power relation. As objects of power there considered groups, individuals, people. «Power is subject-object relation and in this sphere governor means the unity of subject and subordinate object» [5; 94].

The concept of power despite of its different phenomena is unified. The notion of power unifies the notions of subject, relation and institution. As subject it is known community which means individual and individuals altogether that classified by certain basis, has own will or show the will clearly. Power occurs among the individuals who have the will. The peculiarity of power relation is determined by subordinate who gives will governor. Giving will to someone else takes apart power from other phenomena like ruling, management, union. The methods of giving will can be voluntarily or forceful. Social agreement and original law ideas draw from thoughts that giving will consciously according to person's intension voluntarily realized. Social concepts, especially theory of Marks concentrated on will giving realized by force. Nevertheless the main point is about why will must be given to others.

The main reason of giving will to others is to reach values which doesn't allow to achieve will. Will is always directed to reach the certain object, that's why it has correlations. The subject of will-maker will strive to achieve the goal, but in case due to some certain reasons could not achieve it, then he makes steps to reach his idea by giving his own will to more powerful, stronger subject. The main reason of people's subordinating to governors is related to this. Governors are drawing from certain government structure, perform the necessary functions for people living, guarantee safety and order for citizens. Giving will to others perform the functions, which only one individual or certain community is not able to make: protect the rights, supply the order and safety, support and develop infrastructure supply living systems

Power means ruling someones will or will which is contradictory to itself, that's why there occur relations about things and values between them. Relations might be direct or indirect. Relation are realized among the will. Indirect relations is bounded by methods of oral, agreement, through conditions, or by other methods. Power relations can be established by law, then relation participants can get inter correlative laws and tasks. But power relations can appear as out of law force, press.

Nowadays dividing theory of power considered from new perspective, undergoing review process. As German jurisprudents and politologists noted the relevance of power's dividing theory «to limit power by law ... provide individuals freedom» [6; 227]. In other words, power dividing considered in close relation with law, theory itself put citizens society properties to first place than government.

According this freedom and rights of person can be protected in two ways: functionally and indirect. If first one uses the conditions of organization and control in protecting person's right, thus it means that power divided horizontally, second one means that power divided vertically, it avoids government power to be in one hand, and uses centralization condition.

Nowadays division of power is explained in two ways:

- legislative, executive and judiciary relations;
- relation of central and local bodies.

Unified government power's division in branches theory's living ability distinguished by existence of positive elements with legal significance.

According this doctrine of power division from controlling and analyzing views determines two its complex historical characteristics:

1. The realization and organization of government power idea's as basic unified body system in government mechanism labor begins with division. This body system distinguished in certain level, legally organized, inter functions limited, legally personality supplied, one body rised up with the help of second forbidden structure.

2. Division of power in any time is a system which as a necessary condition of destroying despotism and forbid touse the power with wrong intension, supply social order and law, pluralistic as main tool of equaling political power, group and personal properties, which guarantee personal rights and freedom.

Phenomenon «state» must be shown as unified political legal mechanism in social organization of infrastructure. State and state signs can be realized only in situations when fully internal affairs of state and organization of solving social problems of same-type and unified mechanism. I.e. power as main sign of state must be of same-type and unified. The division of power means the realization of this state sign by different methods and tools. Thus to divide power into different branches activity of state in different spheres, there is taken into consideration the size of methods of tasks and functions realization.

Unity and entity of government doesn't allow to ask the questions as what branch of power is significant, which is more powerful. None of them can exist in its own. In this case executive power possess its functions to legislative power or other way round is unfruitful. The government affect for stability, its fake role in society get realized when it reaches to higher level of self organization of institutional power in each agency, when these agencies interact in horizontal and vertical way. To establish constitutionally the unity and entity of government is known through determining the acting sphere of the branches of executive, legislative and judiciary powers and by forwarding the reformation of political and government systems.

The theory of power division leads to power institutionalization. Parliament enact the legislation as political institution, i.e. it sets the requirements for executive and judiciary actions. Power should not turn into politics, this requirement meant only for this institution itself, it doesn't appeal to its other subjects of private powers. The body of legislative power should avoid to interact directly. They enact only legislation, its realization and to protect in case of violation belongs to competence of other institutions. The goals of parliament include providing of law and order. It creates conditions to show freely and form individuals and its community, but in legislation should be established norms which functioning are interests of people.

If modern government power which based on forcefully compelling agency, on infrastructure which provides the quality of citizens life isn't organized in high level, then society can get over governed, people might become subordinates.

Determining the subjects, relation and institutions of power is important to withstand to this, to distinguish civil society from government in government itself.

Considering the peculiarities of legislative power, the first thought would be about legislative «branch» in law resources. To use the concept «branch» doesn't mean legislative power's independence in certain level. Power institution is not perfect object, it has material properties. Its structure consists of:

- financial supporting part of power;
- mechanisms of power relation realizations;
- institutional object of power;
- power establishment;
- ideas;
- representatives [7; 21].

Government as power institution has supports as: compulsion structures, realization of common functions, citizenship, infrastructure. Legislative power recompense above mentioned support indirectly through executive power. It forms postulates by realization of citizens' rights, support and develop infrastructure, to use compulsion structures, formation of orders and conditions by performing common functions of power.

Power supports supplies the activity of specially created power mechanisms, with the help of them there perform power relation. For example, it forms presidential vertical which leads to power relation (president agencies, government, akims (mayor). Bureaucracy, communication, enact direct government ordinances are accepted as tools of power performing. According to legislative power mechanism of performing power relation is legislation process. It has beginning in legislation and lasts from enacting in legislation activity till the term ends. Institutional object of Legislative power has reflection in interaction between other branches of power. First of all, it appears in interaction between judiciary power and executive power which is the element of unified power institution. Also it is seen through defining the structure, competency and the action regulation of legislative power. As element of power institution legislative power doesn't rule government directly and straight, but it controls and forms performing its action, functioning methods and

conditions. From law perspectives, the object of legislative power is to form the equality in interaction between direct power and inhabitants, also among citizens, to form requirement, constructions, rules which helps to support equal rights. In institutionally organization of power there can be limitation even for legislative power itself. The members of parliament only for representatives of different civil interest have two problems. First, in disability of parliament members in solving some special problems because of the lack of professional masters, second the result of disrespect of whole government interest thinking of his personal requirements. That's why it is very important to declare unchangeable rules of government structure, the whole government ideas, values through the Constitutional establishment. There must be set up special power for controlling of Constitution execution. For example, according to the Constitution of The republic of Kazakhstan Constitutional Council perform above mentioned appointment. The idea of performing legislative power is seen in government ideology. In the condition of Kazakhstan laws must serve in the goal of strengthen government regulation.

Government principles affect on presenting significant social interests, first of all economic interests which exists in modern society. In legislative power coverage of all representatives of different groups is very important from the perspective of agreement as condition of development of Kazakhstani society. Citizen has rights to participate in social active rights and law creativeness directly or through representatives. With this quality citizen separated from his subordinates. Subordinate is «given» subject, and citizen takes part in legislation through representatives or himself.

The Constitution of the Republic of Kazakhstan is aware that man, his life, rights and freedoms are the most precious treasure and puts forward the concept of protection and defend the honor and dignity that is the main task of the government. To achieve the goal of a unified government in the country, on the basis of the Constitution and laws of the legislative, executive and judicial branches will be allocated using a system of checks and balances of interaction. Independent legal withheld from the direction of the formation of the state. Legal laws of interaction between people in the community in real space are not in the true sense of social stability, intelligence, creating conditions of stability. The law is the basis of people, the nation and other social community, humanity, spirit and mentality. Therefore, the law is unconditional, naturally, sequentially. Such laws of human life determine the nature of the legend everyday life. The value of the legal laws can be unknown to the people, but the people themselves due to their nature will perform the day-to-day public relations work.

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Заң шығару билігінің түсінігі және мазмұны

Заң шығару билігі мәселелерін зерттеудің танымдық, академиялық, саяси сипаты бар. Мақала заң шығару билігінің түсінігін, мазмұнын теориялық және тәжірибелік тұрғыдан зерттеуге арналды. Заң шығару билігі әр түрлі қоғамға маңызды қатынастарды жүзеге асырудың тәртібін, барысын және шартын тағайындайтын мемлекеттік биліктің тәуелсіз тармағы ретінде қарастырылды. Заң шығару билігінің ерекшеліктеріне тоқталу барысында заң әдебиетінде қолданылатын заң шығару «тармағы» түсінігіне өзіндік көзқарас тұжырымдалды. Заң шығару билігінің құрылымдық элементтері нақты мысалдар келтіре отырып талданды.

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Понятие и содержание законодательной власти

Изучение проблем законодательной власти имеет познавательное, академическое и политическое значение. Данная статья посвящена изучению понятия, содержания законодательной власти с теоретической и практической точки зрения. Законодательная власть рассмотрена как независимая ветвь государственной власти, определяющая порядок, процесс и условия реализации различных важных общественных отношений. В процессе изучения особенностей законодательной власти на основе изучения юридической литературы дано собственное видение понятия законодательной «ветви». Структурные элементы законодательной власти рассмотрены на основе конкретных примеров.

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