ORBIS
Revista Científica Electrónica de Ciencias Humanas / Scientific e-journal of Human Sciences /
PPX200502ZU1935 / ISSN 1856-1594 / By Fundación Unamuno /
Alexey Yu. Mamychev, Andrey Yu. Mordovtsev, Yuriy Yu. Kalinovsky, Marina G. Khaustova, ZhannaV. Chevychalova (2018)
EL REPRESENTANTE DEL INSTITUTO DE ESTADO EN LOS SISTEMAS POLÍTICOS HÍBRIDOS Y MEZCLADOS
www.revistaorbis.org.ve / núm Especial Internacional (año 14) 130-139

THE HEAD OF STATE INSTITUTE IN THE MIXED AND HYBRID POLITICAL SYSTEMS

EL REPRESENTANTE DEL INSTITUTO DE ESTADO EN LOS SISTEMAS POLÍTICOS HÍBRIDOS Y MEZCLADOS


Alexey Yu. Mamychev[1]


Andrey Yu. Mordovtsev[2]


Yuriy Yu. Kalinovsky[3]


Marina G. Khaustova[4]


ZhannaV. Chevychalova[5]

RESUMEN
El objetivo de esta investigación es el análisis de la naturaleza jurídica y social del jefe del instituto estatal en sistemas políticos atípicos: híbrido y mixto. Los autores utilizaron ampliamente métodos comparativos, legales y comparativos-históricos para estudiar este problema. nuestro hallazgo muestra que consideramos críticamente algunos enfoques filosóficos y legales para comprender una forma del estado, el lugar y el papel del jefe de estado, los detalles de los sistemas políticos de diferentes tipos que tienen lugar en diferentes períodos históricos: desde la antigüedad hasta ahora.
Palabras clave: Líder político, constitución, sistema político, cultura política, monarquía.

ABSTRACT
The aim of this research is the analysis of the legal and social nature of the head of state institute in atypical political systems is carried out: hybrid and mixed. Authors widely used comparative and legal and comparative-historical methods for Analyzeing this problem. our finding shows that critically consider some philosophical and legal approaches to understanding of a form of the state, place and role of the head of state, the specifics of political systems of different types taking place in different historical the period: from Antiquity up to now.
Keywords: Political leader, Constitution, political system, political culture, monarchy.

DOI: https://doi.org/10.5281/zenodo.7897123

[1] Doctor of political sciences, professor. Vladivostok University of Economy and Service. Rostov institute (branch) of the All-Russian state university of justice (RPA of the Ministry of Justice of the Russian Federation). E-mail: mamychev@yandex.ru

[2] Doctor of jurisprudence, professor. Rostov institute (branch) of the All-Russian state university of justice (RPA of the Ministry of Justice of the Russian Federation), Vladivostok University of economy and service, Taganrog institute of management and economy. E-mail: aum.07@mail.ru mailto:aum.07@mail.ru

[3] Dr. of Philosophy, Professor of the Philosophy department, YaroslavMudryi National Law University, Kharkiv, Ukraine. E-mail: kalina_uu@ukr.net

[4] PhD, Associate Professor of the Theory of State and Law Department, YaroslavMudry National Law University, Kharkiv, Ukraine. E-mail: khaustova22_marina@mail.ru

[5] PhD, Associate Professor of the Department of International Law, YaroslavMudry National Law University, Kharkiv, Ukraine. E-mail: zhannachevychalova@gmail.com

INTRODUCTION

Analyzing the non-typical forms of the power organization and modes of its implementation, as well as ways of legitimation in modern state reality is A very important problem. Roots of the theory about state and forms of the power organization traces back to old-oriental and antique doctrines about the state. Historically, it is presented in the context of the last "justified" and logically verified typology of the classical forms of government, a state system, forms and the modes of implementation of the public power (Kerimov, 2003).

Development of the modern states, systems of the government demonstrate emergence of the non-classical (displaced) or atypical forms of government (the monarchic republics, republican monarchy, semi-presidential, semi-parliamentary, presidential and parliamentary, etc.); forms of government (regional, quasifederal, quasifederation and so forth), forms of a political regime (generally it is the transitional, convergence, mixed, combinational modes) (Lyubashits, Mordovtsev, Mamychev, 2010)

In the evaluation of the formation processes of atypical forms of states, judgments of political scientists are different. They settle down from negative (deform, distort a being and value of these or those forms) to positive (correspond to modern problems of the state, the arising problems of management, socio-political requirements and so forth). In most cases it evaluated as a positive phenomenon; it promotes increase in level of controllability of the state (in those spheres where such increase corresponds to interests of society)" (Lyubashits, 2010).

Historical ancient and modern philosophers searched of the mixed, optimum forms of the state. For example, Plato offered the doctrine about "hybrid", ideal forms, Aristotle formulated the doctrine about the typical (correct) and atypical (wrong) forms of government (Kerimov, 2003). The perspective of not typical was lifted (who, by the way, and for the first time offered category of "the mixed forms") by both Mark Tully Cicero and many others. In Western Europe theory of the state and schematization of not typical was one of the most important grounds in development of political and legal theories.

Although political scientists from ancient times until now are familiar with atypical forms of state and power organizations, there is no all-divided definition of atypical forms which is accepted by scientific community. Though many authors point to evidence and need of formation of that (Kerimov, 2003).

Dynamism of state and legal practice causes continuous emergence and development of "Atypical phenomenon" as structural elements of a form of the state directly express variability of social reality in the context of which they develop and become complicated. This development inquiries optimization of the

government, efficiency and legitimacy of its functioning and will improve public administration and its adequacy to concrete historical conditions.\.

METHODOLOGY

At the beginning of the 21st century there is obvious a fact of transformation of many classical political systems (command or, on the contrary, competitive) in other, earlier most often not familiar forms and types. In this plan, neither legal, nor political sciences, nor a social and philosophical discourse can just remain away from consideration of the mixed, transitional or hybrid political systems (Mordovtsev, Zhinkin, Mamychev, Yakovyuk, and Shestopal, 2017).

It is clear, that here it is important to allocate,

First specify the main (basic or intrinsic) characteristics of non-classical political systems (Antúnez, 2016).

Secondly giving them legal, historical and cultural and social and philosophical treatment;

In the third to investigate the maintenance of key political and legal institutes, in particular, and probably first of all - the head of state institute

Based on theory and methodology , updating of a problem in different types of political systems may lead to traditional religious or state and legal thought (Ayakyan,1998) and, certainly, in works of many jurists, philosophers and historians of the second half of XVIII - the beginnings of the 20th centuries reflecting various (conservative or moderately liberal) positions concerning the special nature of the Russian monarch, his important functions, organic public relations, church, etc.

Generalizing rich philosophical and legal heritage in this sphere of humanitarian knowledge it is necessary to allocate a number of the methods used here. In particular, the methodological basis of the real research represents a combination general:

1- Dialectic systems

2- Synergetic and system and structural analysis

3- General scientific

4- Special methods of a research (Mordovtsev, Mamychev, Mordovtseva, Mirzorin, 2016).

DISCUSSION

STATE REPRESENT

Probably, it is necessary to admit indisputable the fact that any state represents unity of its essence, contents and a form. In this context, also the fact that steady functioning of the state demands adequately organized mechanism of implementation of the government is fully explainable.

FORM OF THE STATE

In due time Ilyin noted that the form of the state is not "an abstract concept" and not the "political scheme" indifferent to the life of people, and build lives, the live the power organization of the people (Ilyin, 1991, P71). "It is necessary that the people understood the vital system that he was able - exactly "so" - to be organized that he respected laws of this system and put the will in this organization" (Avakyan, 1998, P9). Not without reason, he claimed, for example, that "the tsar it is necessary to deserve still".

SYSTEMS OF BOARD

Historical experience, of course confirmed that emergence of these or those systems of board in various countries is caused by many factors. The considerable mark on this process is left by features of development of the country, specifics of its political culture, tradition of statehood, a ratio of various political forces during development and adoption of the national constitution, etc.

POLITICAL LEADERS

beliefs and values of the political leader (leaders) will lead to designing of the government and management and can play a big role in the choice of system of board. Owing to this fact, in one country the parliamentary system of board at which functions of the head of state are executed by the constitutional monarch or the president was approved, but real executive power is concentrated in hands of the government accountable to parliament, and in others - the line on creation of the strong presidential power counterbalanced with other political institutes or surpassing the legislative and judicial authorities in the powers prevailed. On the modern political map of the world there are also such countries which in general do without the president's post that once again confirms all variety of forms of statehood.

THE FORMAL POWER AND ITS CTUAL ORGANIZATION

> It is also necessary to mean that "the formal the power organization never coincides with its actual organization... The constitutional right establishes and regulates the formal the power organization and sets a framework of the actual organization. The regulation of the last is made already according to the developed political traditions, customs, by

means of agreements and unilateral solutions of subjects of the power, etc." (Baranov, Ovchinnikov, Mamychev and Plotnikov, 2017, p569).

FOUNDATION FOR FORMATION OF MODEL

In this plan, also the fact that having entered at itself the president's post is indicative, for example, "founding fathers" laid the foundation for formation of model which is possible to call the American model of presidency with confidence**.** As the next two centuries, this model in the finished look showed remained obviously specific and in the full volume it was embodied only in the USA though its many elements were borrowed by political systems of other countries.

CONSTITUTION OF THE USA

Creators of the Constitution of the USA created not just strong, but individual presidential power, having combined in one person of power and the head of state, and the head of the government. At the same time to prevent transformation of uniform executive power into the mode of a personal authority fraught with dictatorship and arbitrariness, they established the principle of division of the legislative, executive and judicial authorities, having added it with system of mutual "controls" and "counterbalances" of these authorities concerning each other (Zagvyazinsky, Plotnikov and Zagvyazinsky, Plotnikov and Volosnikova 2014).

RUSSIA PRESIDENT'S POST

In legal literature it is possible to meet various opinions on the reasons of establishment in Russia in 1991 of the President's post. Some researchers point also to similar experience in the USSR (where the post of the President was founded in March, 1990), to need to provide personal responsibility for efficiency of public administration and recovery from the crisis of the beginning of the 90th, carrying out the political line planned in the Declaration on the state sovereignty of RSFSR (Mordovtsev, Mamychev, Mordovtseva, and Mirzorin, 2016; Mordovtsev, Zhinkin, Mamychev, Yakovyuk and Shestopal, 2017). The emergency situation which developed in the years of reorganization forced to look for extraordinary methods of an exit from it.

SYSTEM OF CONTROLS AND COUNTERBALANCES

However, the historians of the right building the presidential power to an extraordinary magistracy of Ancient Rome also pointed to it. For prevention of revival of authoritarianism, it was offered to provide effective system of controls and counterbalances (Chirkin, 1994). To change of the form of government of legislator's low efficiency of administrative work of parliament, including according to the management of the government induced.

ORGANIZATIONS OF THE SUPERME BODIES OF GOVERNMENT

Rapid development of a number of the states at the end of XIX - the beginning of

the 20th centuries convincingly showed various ways of the organization of the supreme bodies of the government, often, not keeping within habitual schemes and classifications. Unfortunately, domestic jurists only begin to discuss the questions connected with the atypical, non-classical forms of government in the modern states, the place and the status in them of heads of state and government, party leaders.

MODERN CONSTITUTIONAL DEVELOPMENT

The famous Russian researcher Chirkin (1994), considers that creation of such forms reflects certain tendencies of modern constitutional development. In most cases it is the positive phenomenon: it promotes increase in level of controllability of the state (in those spheres where such increase corresponds to interests of society) (Chirkin, 1994).

AN OPTIMUM FROM THE STATE

In the European political science and political philosophy, since antiquity times, the problem of search of an optimum form of the state, a question of classification of the forms of government and criteria of their classification is in the center of attention of lawyers, political scientists, philosophers, historians, etc. Relevance of a subject is in many respects connected with a constant collision in the European political culture of monarchic and republican values.

GREEK-ROMAN HUMANITARIAN TRADITION

Within the Greek-Roman humanitarian tradition it is possible to find many interesting approaches. So, Aristotle considered experience of public administration in 156 Greek states and on this basis developed the doctrine about six forms of government: democracy, oligarchy, a polity, the aristocracy, the monarchy, tyranny.

CATEGORY “THE MIXED FORM OF GOVERNMENT”

Approximately in two hundred years Polybius added this classification and introduced for scientific use *category "the mixed form of government"* in which, in his opinion, signs of democracy, the monarchy, the aristocracy integrally connected. In the European history of a legal and political thought the problem of the atypical forms of government was developed rather fully by Mark Tully Cicero.

THEORY THE INTEREST IN MIXED FORMS OF GOVERNMENT

THE IDEAL STATE

In the period of the Renaissance and the Reformation in the European theory the interest in the mixed forms of government caused by formation of absolute monarchies, as well as development of the tyrant-opposing movement is found. In well-known "Utopia" Thomas More offers the following model of the ideal state: people's assembly, the electoral Senate, the head of state for life chosen. The right

of the aristocracy to elect the head of state consistently is proved in works of the French authors.

GENERAL THEORY OF STATE

During Modern times in the general theory of the state and political philosophy development of this question continues., T. Hobbes suggested to reconsider antique tradition and to refuse division of the forms of government on *correct* and *wrong*. The English Constitution of 1653 fixes basic elements of the mixed form of government which is called *protectorate.* The head of state is the lord protector for life elected by the State Council. The lord protector, like an ancient Roman printseps[6], appointed body which elected him.

In literature still there are disagreements on the issue of definition of the English form of the state during this period. Some authors claim about monarchic lines, others insist on the republic.

CONSTITUTION OF 1799

Whereas, it is obvious that it was one of experiences of creation, the first in the history of Western Europe, of the mixed form of government. Further similar "experiment" is put by Napoleon Bonaparte. When developing the Constitution of 1799, he intentionally refuses the political radicalism inherent in the French.

CONSTITUTION OF 1793 AND 1795.

As a result, the Constitution of 1799 fixed the scheme of public administration based on obvious domination of the administrative and administrative power: the head of state (the first consul) was elected by the Senate for 10 years (since 1802 - for life), the first consul formed the list of the Senate, focused the large volume of powers of authority in the hands.

Nevertheless, this Constitution provided existence of democratic bodies and institutes (for example, a plebiscite), universal suffrage, legislative assembly, трибунат which, however, did not possess the real power and in the conditions of the mode of individual management served only as cover of the authoritarian dictatorial model of dominion which developed in the country (Baranov, Ovchinnikov, Mamychev and Plotnikov, 2017)

The idea of the mixed form of government was widely adopted in the liberal theory of the right in Russia in the second half of the 19th century. Liberal ideologists opposed extreme forms of statehood. The mixed board most fully embodied in constitutional monarchy where the agreement of various public elements is especially obvious.

[6]An official title of a Roman Emperor as the title determining the leader in Ancient Rome at the beginning of the Roman Empire

THE MIXED FORM OF GOVERNMENT

The mixed forms of government, it should be noted the fact that rigidity of the existing classifications is gradually lost: in legal science the basic possibility of connection of lines of the republic and monarchy (for example, in Malaysia), absolute and constitutional monarchy (Kuwait), the presidential and parliamentary republic begins to be acknowledged (France, Colombia under the Constitution of 1991).

Chirkin, 1994, allocates several reasons of similar modifications:

> a) The state not only division of the authorities and system of mutual controls and counterbalances, but also establishment of necessary interrelations, interactions, inter-consistencies in work of the supreme bodies of the state is important for controllability. Creation of the mixed forms, most often, improves interaction of bodies of the state though it occurs or due to reduction of a role of parliament, or due to reduction of powers of the president, or by establishment of submission of the government at the same time to both parliaments, and the president;
>
> b) The shortcomings inherent in form per se have the "pure" forms of government. So, the presidential republic, obviously, tends to presidential authoritarianism (the super-presidential republic), instability of the government, frequent cabinet crises and resignations is, as a rule, inherent in the parliamentary republic;
>
> c) Emergence of the mixed, "hybrid" forms of government, in many respects, is connected also with distribution in many countries of the world of the progressive political and legal ideas and institutes. For example, under the influence of such ideas in Kuwait, Bahrain, the United Arab Emirates, in Saudi Arabia Constitutions are adopted (p.316).

CONCLUSIONS

Now it is it is unlikely possible to speak about the standard classification of the atypical forms of government. Obviously, creation of the last is a business of the near future. While, most often, allocate the mixed and "hybrid" forms, in increasing frequency write about "the monarchic republics" and "republican monarchy".

So, traditionally the head of state in monarchy is a governor hereditary and lifelong. Elections of the new monarch are usually held in that case when for any reasons the dynasty stops (for example, at the end of 16 century in Russia the ryurikovsky board broke and after the Time of Troubles Mikhail Romanov is elected the tsar though, actually, the new ruling dynasty was chosen). At the same time now, there are such monarchies where the head of state not lifelong and not hereditary, is re-elected through a certain period. Such system exists in Malaysia and the United

Arab Emirates, very peculiar federal elective (republican) monarchy where the head of state is re-elected time in five years.

The similar order wonderfully pulls together the monarch with the president and the monarchic form of government from republican. Nevertheless, both states remain monarchy since any citizen meeting the requirements which are accurately recorded in the legislation imposed to the presidential candidate (the republican principle) to them cannot be elected the head of state there can be only one of hereditary and lifelong monarchs - governors of components of federation. For example, in Malaysia nine of thirteen subjects of this state are headed by hereditary monarchs and only they form Council of governors which time in five years and elect the head of state. Sultans hold this post serially for what in Council of governors the special list is kept.

At the same time, in operating conditions of totalitarian systems of the 20th century there were also others "hybrid educations" - "the monarchic republics" to which it is fully peculiar such essential sign of the monarchy as an ire movability of the head of state. Such "phenomena" in special literature are usually called the presidential and monocratic republics. And, if in the super-presidential republics of the constitution, more wide spreading the world, after all provide periodic re-election of the head of state, then constitutions of the presidential and monocratic republics or just "suppress", "forget to include in the text" regulations on an order of elections of the boss of the country, or directly provide lifelong presidents. "The foundation was laid for this phenomenon, probably, in Indonesia (president Sukarno), then socialist Yugoslavia followed.

REFERENCES

Antúnez, J.V.V. (2016). ***Bioética y gobernanza universitaria***: Un nuevo paradigma para la educación de futuro. Opción 32 (2). Venezuela.

Avakyan, S.A. (1998). ***President of the Russian Federation: evolution of constitutional legal status***. Bulletin of the Moscow University. Series 11. Right. No. 1. p. 9. Russia.

Baranov, P., Ovchinnikov, P., Mamychev, A., Plotnikov, A. (2017). ***Elites and the Formation of Constitutionalism:*** The Socio-Cultural Vector of Development. Man, in India. T. 97. No. 23, pp. 561-575. Russia.

Chirkin, V.E. (1994). ***The atypical forms of government in the modern state***. the State and the right. No. 1. p. 109. Russia.

Kerimov, D.A. (2003). ***The methodology is right*****:** Subject, functions, legal philosophy problems. 3rd prod., rev. and additional M. Russia.

Llyin, I.A. (1991). ***About the state form***. the Soviet state and the right. No. 11. Russia.

Lyubashits, V. Y., Mordovtsev, A. Y., Mamychev, A.Y. (2010). ***Theory of the state and right***: Practical work. Prod. the 2nd, additional and rev. Rostov. Russia.

Mordovtsev, A., Zhinkin, S., Mamychev, A., Yakovyuk, I., Shestopal, S. (2017*).* ***Legal Mentality in National Cultural Space***: Characteristics of the ERA of Change (Church Schism of the 17th Century). Man in India. 97. (23).PP. 295-309. Russia.

Mordovtsev, A., Mamychev, A., Mordovtseva, T., Mirzorin, M. (2016). ***Democratic transit in the South Caucasian countries****.* CENTRAL ASIA AND THE CAUCASUS. Journal of Social and Political Studies. Vol. 17. Issue 3. pp. 7-14. Russia.

Zagvyazinsky, V. I., Plotnikov, L. D., &Zagvyazinsky, Plotnikov, &Volosnikova 2014, L. M. (2014). ***Pedagogic Education in Russia and Its Potential Development Strategy***. Education Science, 1(4), 3-18. Russia.