Shakhrai Sergey Mikhailovich

25 years of the Constitution of the Russian Federation: implementation and development of constitutional models

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The article is devoted to the analysis of a number of problems associated with the implementation and development of constitutional models. As a characteristic feature of the current Constitution of the Russian Federation, its role is emphasized as a political and legal instrument that provides targeted management of various changes associated with a change in the political, economic, legal and, ultimately, the entire social order.

It is noted that the set of constitutional models contained in the Basic Law of the country, in its organic totality, represents the "plan for the future" for Russia, provides target guidelines for the development of society and the state. Special attention is paid to the consideration of the reasons affecting the quality of the implementation of constitutional models in life. The key of them is the objective features of the cultural and historical context in which the Constitution of 1993 began to function.The implementation of the constitutional goals started in the transition period, when there was virtually no legal and institutional framework corresponding to the new constitutional provisions, and in the public consciousness, as well as in the consciousness of the elites , at the same time, old and new ideas about the desired future coexisted and competed, about the strategy and tactics of the country's development, about how what is acceptable and acceptable. The maintenance of such competing views and corresponding models of the desired future still affects the quality and completeness of the implementation of "constitutional intentions" in life.

The paper shows that the analysis of the implementation of constitutional models urgently requires the use of cross-disciplinary approaches, since any research of the "constitutional plan" and fact, and even more so - the search for the causes of the current state of affairs, inevitably go beyond the subject area of constitutional law in the spheres of other social sciences: political science, social psychology, history, economics.

Valerian Lebedev

Constitutional development of Russia

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The article analyzes the current state, value and social significance of the Constitution of 1993, presents points of view regarding its viability from the standpoint of the need to reform the Basic Law or further disclose the potential of the current Constitution of Russia. According to the author, the dynamics of constitutional reform is determined by the degree of formation of its prerequisites. Political decision making depends on the constitutional situation in the country, i.e. on the availability of goals, conditions and means necessary for the implementation of constitutional reforms. In the context under consideration, the most important,

according to the author, are socio-economic and political conditions. The legal mechanism for carrying out the constitutional reform is at the stage of formation. The nature of the relationship between the President of the Russian Federation, the Federal Assembly, the Government of the Russian Federation,

Umnova-Konyukhova Irina Anatolyevna

The 1993 Constitution of the Russian Federation: Assessment of the Constitutional Ideal and Its Implementation through the Prism of World Experience

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Based on the results of the 25-year validity of the 1993 Constitution of the Russian Federation, the adequacy of the liberal-democratic idea enshrined in it, the formulated constitutional goals and values to the needs of the modern development of the Russian Federation is assessed. The "constitutional ideal" enshrined in the Constitution of the Russian Federation and reality are compared. The assessment is given through the prism of world experience in constitutional development. It is noted that the value and authority of the constitution are subject to erosion under the influence of numerous objective and subjective factors, due to the influence of which there is a significant gap between the ideal enshrined in the constitution and reality, and the ideal itself is questioned.

The following trends are consistently considered: 1) the formation of constitutional axiology, humanization and socialization of constitutions, expansion of constitutional morality; 2) the emergence of new doctrines of the constitutional ideal, based on a constitutional compromise in the context of the crisis of the liberal-democratic and other existing doctrines of the constitution; 3) the emergence of the phenomenon of global constitutionalism, changing the spatial limits of the constitution, increasing international interference in constitutional design and shaping universal constitutional standards.

On the example of the Russian Federation, the positive and negative consequences of the transformation of the state system of the Soviet socialist type into the constitutional system of the liberal-democratic type are determined.

In the context of optimization of the constitutional design, depending on the level of publicity of constitutional procedures, the problem of the legitimacy of the Constitution of the Russian Federation of 1993 is considered. It is proposed to consider it inappropriate to further discuss the problems of the legitimacy of the current Constitution of the Russian Federation. Otherwise, the legitimacy of the entire system of legislation of the Russian Federation, adopted on its basis, is questioned. It is also important to take into account the application of the forms and procedures of civil consent when adopting the Constitution of the Russian Federation, which was expressed in the work of the Constitutional Conference, the signing of the Agreement on public consent and the holding of a nationwide referendum.

Assessing the prospects of constitutional development, the author believes that in the conditions of modern threats and challenges to humanity, there is an objective need to revise certain constitutional and other legal standards determined in national law and international law. The author proposes to call this direction of constitutional regulation and constitutional research constitutional futurism, and the doctrine that forms the constitutional ideal of the future - constitutional futurism. The identification of the constitutional ideal is based on the study of the level of implementation of the current constitution, which, as it seems, is measured by three main indicators: constitutional congruence, efficiency and objectivity of constitutional provisions. The main task of constitutional futurism is in order to identify the potential of constitutional development aimed at improving the constitutional order on the basis of an assessment of the level of implementation of the current constitution. The content of this potential in the modern period should be associated, it seems, with the search for fundamentally new standards of life, leading to a qualitatively new level of development of human civilization. This approach predetermines the new structuring of constitutions and, accordingly, the branches of constitutional law, the result of which will be the transformation of the constitutional right of survival into its highest type - the constitutional right to life, based on the constitutional ideal. with the search for fundamentally new standards of life, leading to a qualitatively new level of development of human civilization. This approach predetermines the new structuring of constitutions and, accordingly, the branches of constitutional law, the result of which will be the transformation of the constitutional right of survival into its highest type - the constitutional right to life, based on the constitutional ideal. with the search for fundamentally new standards of life, leading to a qualitatively new level of development of human civilization. This approach predetermines the new structuring of constitutions and, accordingly, the branches of constitutional law, the result of which will be the transformation of the constitutional right of survival into its highest type - the constitutional right to life, based on the constitutional ideal.

Zenkin Sergei Anatolievich

MODERNIZATION OF THE CONSTITUTION OF THE RUSSIAN FEDERATION: REGULATORY MODEL AND PRACTICE

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The article examines four modes of modernization of the Constitution of the Russian Federation: revision of the Constitution (provisions of Chap. 1, 2 and 9), adoption of amendments to Chap. 3-8, amendments to Part 1 of Art. 65 concerning the composition of the Russian Federation and in connection with the change in the name of the subject of the Russian Federation. Analyzed by Art. 134-137 of the Constitution, establishing the foundations of normative models of modernization regimes, judgments are made about what a federal constitutional law on the Constitutional Assembly can be, as well as about some elements of the structure of this body, it is reported about the drafts of this law that were put to the vote by the

State Duma. The author believes that the adoption of the Constitution by popular vote should not be considered solely as a backup method, which is used if the project does not receive the support of 2/3 of the members of the Constitutional Assembly. The provisions of the Federal Law "On the Procedure for the Adoption and Entry into Force of Amendments to the Constitution of the Russian Federation" are considered, the key disagreements in its adoption are shown, the legal regulation of the subjects of the Russian Federation of the procedure for considering the amendment law is investigated, attention is drawn to the shortcomings of federal and regional regulation (in particular, on the fact that the legislation of the constituent entities of the Russian Federation establishes various decisions on the majority, by which the legislative body approves the constitutional amendment), the peculiarities of the legal and technical design of the amendment laws are noted. The practice of introducing draft constitutional amendments (more than 30 initiatives), their adoption, approval by legislative bodies, as well as amendments to Art. 65 of the Constitution.

Chikhladze Levan Teimurazovich

THE CONSTITUTION OF RUSSIA AND THE PROBLEM OF GUARANTEES OF HUMAN RIGHTS AND FREEDOMS

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The article deals with the problem of guaranteeing the legal status of a person and a citizen in the Russian Federation. In connection with the process of globalization, this has become a universal, world problem that requires a uniform and harmonious solution by the entire world community. It is important to note that the actual task of a comprehensive guarantee of justice and independence of a person and a citizen leads to a repeated revision and analysis of the issue of constitutional guarantees. An acute problem is the need to study new aspects and highlight the role of the 1993 Constitution of the Russian Federation in guaranteeing human and civil rights and freedoms.

Special attention is paid to the study of two aspects: the systemic nature of guarantees of human rights and freedoms and the place of judicial guarantees in this system. It shows, first of all, the systemic connection between constitutional and state guarantees, which is also manifested in the fact that state guarantees are fully enshrined in the Constitution of Russia. The substantive aspect of constitutional guarantees of human rights and freedoms, the uniqueness of their effectiveness are disclosed in detail.

The role of courts and judicial guarantees in the Russian Federation in the possibility of obtaining compensation for damage from unlawful acts was especially noted. Thanks to constitutional guarantees, their primacy in relation to other types of guarantees, a harmonious system of guarantees of human and civil rights and freedoms has developed in the Russian Federation, which has significantly enriched and diversified the capabilities of each person in this area.

Titova Elena Viktorovna

TO THE QUESTION OF THE CONSTITUTIONAL LEGAL CONCEPT OF INTERACTION OF THE STATE AND THE MAN

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The article is devoted to the analysis of controversial issues of the development of a synthesized constitutional and legal concept of interaction between the state and the individual. It is noted that the designated task can be achieved using various scientific fields and allows the use of the methodology of polydisciplinary knowledge. The change in the reflection of the problem of interaction between the state and the person in the subject of domestic state law is analyzed. It is concluded that just as the subject of constitutional law is not static and cannot be outlined once and for all, the static and dynamic components can be distinguished in the emerging constitutional-legal concept of the relationship between the state and the individual. The first, static, can be attributed to the constant participants in the interaction - the state and the person (personality). The second, dynamic, concerns the principles, methods and forms of both direct and reverse interaction of these subjects. The key element is understanding the typology and nature of the relationship between the state and the individual. The stages of the process of formation of the modern Russian constitutional and legal concept of the relationship between the individual and the state are indicated: formation and modernization. The stage of formation of the named concept is quite consistent with the transitional (intersystem) state of the Russian state and constitutional law, in connection with which it can be characterized as intertype. The article touches upon the problems of combining the idea of a "service state" and a "strong state", as well as the correlation of systemiccentrism, personocentrism and solidarity in the Russian Constitution. The goals, constitutional principles, forms of interaction between the state and the individual. A proposal was made to include the constitutional lawful behavior of interacting subjects as an independent element of the concept. Criteria for such behavior are proposed and conclusions are drawn about its significance and value in the context of interaction between the state and the person.

Naruto Svetlana Vasilievna

CONSTITUTION, FEDERALISM AND UNITY OF THE STATE LEGAL SYSTEM OF RUSSIA

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The article discusses issues related to the constitutional provisions of the fundamental constitutional principle of the unity of the state-legal system, which allows to preserve the integrity and sovereignty of the Russian state.

Attention is drawn to the experience of the constitutional consolidation of the federal structure preserved during the Soviet period, to the peculiarities of the modern regulation of federal relations in the Constitution of the Russian Federation

of 1993. The author draws attention to the uniqueness of the domestic model of the federation, which has no analogues among foreign federal states.

The article criticizes the assertions about the expediency of building a federation in Russia based solely on territorial and not national principles, that the allocation of republics as subjects of the federation is "irrational and dangerous", that "the optimal form of state structure for Russia is a unitary republic" ... The author substantiates the idea that the unity in a federal state, taking into account its rich historical experience, can only be the unity of diversity, therefore there is no need for a constitutional reform of federalism. It is concluded that the unity of the multinational, polyconfessional federal state should be strengthened not by violent reforms, but by the development of the economy and, as a result, by increasing funding for the social sphere, taking into account the interests and improving the well-being of people.

The evolution of the federal structure of Russia is analyzed, the current state of which differs not only from the structure of the Soviet period, but also from the federalism that took shape immediately before and after the adoption of the Constitution of the Russian Federation in 1993. Having identified the current federal problems, the author believes that the optimization of the constitutional model of Russian federalism needs in supporting it by legislative establishment of a reasonable balance of powers and finances, taking into account the specifics of specific constituent entities of the Russian Federation, as well as encouraging regions to develop their own economies. At the same time, the task of the Russian state is to preserve the ethnicity of all peoples inhabiting Russia, to preserve the political and legal identity of Russia.

Dudko Igor Gennadievich

On the question of the authority of the Constitution of the Russian Federation

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The article examines the content of the concept of "authority" - a property immanently inherent in the Constitution of the Russian Federation. Authority is defined as a phenomenon of public awareness and rootedness of the Constitution in the consciousness of society, the belief that it is capable of building an ideal model of constitutionally mediated relations that meets the canons of what is proper, just and the only legal. Two groups of parameters have been identified that determine the authority of the Constitution of the Russian Federation. The first group forms the qualities of the Constitution that follow from its content (goals, principles, provisions). The second group of parameters has a provisional character (legitimacy, international recognition, efficiency, constitutional stability). The authority of the Constitution of the Russian Federation, along with its substantive qualities, is determined by the level of political and legal culture of society and,

Valery Nevinsky

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Constitutional values are human values recognized and protected by the constitution of the state as its fundamental law and at the same time a set of development guidelines. Acting as the "core" of the legal system, the constitution, the values it proclaims are subordinate to the general process of development of the legal system and at the same time serve as a guideline for the development of this system. In the system of constitutional values, first of all, the value of the constitution itself is highlighted, through the prism of universalization of which it is possible to detect trends in the development of the system of constitutional values. In particular, there is a clear tendency towards the universalization of constitutional values in general and the values of the constitution in particular. Universalization is an objectively conditioned process of their values unification through mutual penetration of national legal cultures into each other, the formation of supranational legal and international legal communities. The main directions of the universalization of the value of the constitution are manifested in the recognition by humanity of the historical authority of the constitution; in the general perception of it as the fundamental law of society and the state, a "social contract", the bearer of the official state ideology, the custodian of the cultural identity of the state-forming people; in the unification of legal features, the procedure for adopting and changing the constitution with the active involvement of citizens and their associations in these procedures; in identifying the system of fundamental (basic) constitutional principles as an independent institution of constitutional law. The limits of universalization of constitutional values are rooted in the inadmissibility of destroying the historical memory of the people about their cultural identity; mentality and settled environment of the people; the well-established structure of society and the state, the position of the people and the state in the international community, satisfying their interests.

Anufrieva Lyudmila Petrovna

The Constitution of the Russian Federation and International Law: A Theoretical Look at the Concept of “Generally Recognized Principles and Norms of International Law”. Part 1. On the principles of law in general and on the principles in international law

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Meanwhile, it is the world international legal science that has so far failed to unequivocally accept the concept under consideration and exhaustively establish the essence and content of generally recognized principles and norms as part of the specified system of law, correlating them, taking into account the achieved agreed results, with other established categories and concepts. ... The main reason for this is the lack of unconditional confirmation of the term in question by the norms of positive law: it is not fixed either in the UN Charter, or in the UN General Assembly resolution "Declaration on the principles of international law concerning friendly relations and cooperation between states in accordance with the Charter of

the United Nations" of 24 October 1970, nor in the Final Act of the Conference on Security and Cooperation in Europe of August 1, 1975, although it would be a mistake to believe that it is generally alien to modern international law. The secondary factor determining the stated state of affairs is the discrepancy between the approaches to the vision and qualification of the phenomenon of “principles of international law” on the part of domestic and foreign doctrines, as well as the lack of uniformity within each of them.

In the first section, the article examines some aspects of the theory of state and law and international legal science in terms of the concept of "principle of law", intersecting with other cornerstone areas of scientific analysis, such as options for the conceptual substantiation of law in general, principles of law, the relationship between international and domestic law , terminological variety of designations associated with the concept of "principles of international law", etc.

Anastasia Alexandrovna MERHOLD
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25 years have passed since the adoption of the current Basic Law of our state - the Constitution of the Russian Federation. The Federation Council as a chamber of the parliament of the Russian Federation, along with other government bodies and institutions of constitutional law, has more than once experienced the changes introduced by Russian legislation. The study of the constitutional evolution of such elements of the constitutional and legal status of the Federation Council as the order of formation, its relationship with the principle of separation of powers and powers, made it possible to answer a number of questions that scientists-constitutionalists have repeatedly posed before themselves. In particular, what should be the most rational procedure for forming the Federation Council, which would lead to more effective results in the activities of the upper house of the Russian parliament? What should be the ratio of the branches of government within the framework of the legislative consolidation of the Federation Council? Is the scope of powers of the upper house of the Federal Assembly of the Russian Federation sufficient? When we talk about the formation procedure, we analyze three ways of forming the upper house of the Russian parliament: by elections, by joining the Federation Council ex officio and by empowering a member of the upper house of the legislative body of the Russian Federation by appointing a constituent entity of the Russian Federation by the relevant government body. In addition, a lively interest is aroused by the discussion unfolding around the issue of the relationship between the principle of separation of powers both vertically, and horizontally and the procedure for forming the Federation Council of the Federal Assembly of the Russian Federation. The purpose of this study can be called the identification of positive and negative aspects in the process of constitutional evolution of these elements of the constitutional and legal status of the upper house of the Russian parliament in order to search for an option that would allow seeing

the result of the work of the Federation Council in the form of high-quality legislation.

Igor Goncharov
Features of the functioning of the mechanism of state power in modern Russia: traditions and foreign experience
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The article examines the features of the form of government of the Russian Federation, which determine the specifics of the mechanism of interaction between the head of state and the executive and legislative authorities of the Russian Federation. The role of the Constitution of the Russian Federation in the formation of the mechanism of state power can hardly be overestimated, since it was designed to both solve the issues of organizing power and find a balance of relations between the Federation and the subject of the Federation, as well as observe the principles of federalism and the unity of the system of state power. In many respects, it was the adoption of the 1993 Constitution that made it possible to stabilize the socio-political situation in the Russian Federation. Close attention is paid to the specific form of government of the Russian Federation - the so-called semi-presidential, or mixed, republic. The status of the President of the Russian Federation is extremely entertaining, taking into account the form of government enshrined in the Constitution, since the personal factor, according to many scientists, plays an important role in state building and in the historical perspective, especially considering how much Russia has changed at the turn of the century. An analysis of constitutional norms and the existing practice of relations between the President of the Russian Federation and the legislative bodies of the state power of the Russian Federation allow us to conclude that the present Constitution of the Russian Federation legally uses the “theory of rationalized parliamentarism” in consolidating the powers of the bodies of state power of the Russian Federation, which presupposes the legal constitutional consolidation of limiting the role of parliament in management of the state and domination in the state mechanism, first of all, by the head of state and the executive branch.

The article examines the influence of the historical traditions of the organization of power in the Russian state and the corresponding foreign experience on the functioning of the mechanism of state power in the Russian Federation.

Igor Andreevich Isaev
1918: constitutional choice
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The article highlights one of the most significant issues of the Soviet political and legal history. The choice of the political form, which was made almost immediately after the victory of the Bolsheviks in the 1917 revolution, meant the transition of the country to a new path of state building. The Soviets have become an alternative to a parliamentary republic. The article analyzes the basic principles of both political systems and the reasons for this choice. The supranational character of the political trend, the so-called "direct action", which took place not only in Russia, but also in a number of European countries, is emphasized.

The author notes the decisive influence that both national political traditions and borrowings from Western European systems had on the formation of the representative system. In the European historical experience of parliamentarism, the new Russia was accepted in the absence of political legal parties. The council system fundamentally rejected the "bourgeois" principles of the separation of powers, using for this purpose the experience of the Great French Revolution. However, the power of local councils, for example, clearly exceeded the competence of European municipal authorities. The Soviets claimed the same versatility as parliament had. But unlike him, they had a whole system of hierarchically structured local bodies. Soviet democracy is prone to unanimity and hostility towards the opposition, which is always in the minority. This principle (of “democratic centralism”) was reinforced in the presence of a hierarchical council system, which was a fairly effective filter for decision-making processes. The extraordinary powers of the soviets especially increased in a situation of civil war and the struggle against intervention. Under these conditions, the process of constitutional construction acquired specific features and the Constitution of 1918 itself became a kind of document of the historical era.