

Legal Basis of State Sovereignty of Russia



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Abstract: The article is devoted to the study of the legal basis of the state sovereignty of Russia. This article is aimed at determining the meaning of state sovereignty, recognizing the essence, significance, and directions of its development in the Russian Federation in the globalization conditions. This scientific study was conducted on a step-by-step basis. First, the theme of the study was determined, its relevance was justified. Further, the purpose and objectives of the study were defined. The search and study of scientific literature on this issue were conducted. Then, the choice of research methods and their justification were carried out. Both general scientific and specific scientific methods of cognition were used. The general scientific methods used in the study include induction, deduction and system analysis. Analytical, statistical, system-structural, and formal-legal methods were applied among the specific scientific methods of cognition. Further, the data on the studied problem were obtained, processed and analyzed. As a result, it is concluded that the Constitution of the Russian Federation does not provide for the possibility of sharing Russia's sovereignty with other states or international associations. The indivisibility of state sovereignty between the Russian Federation and the constituent entities of the Russian Federation is established. Internal political factors ensuring the integrity and inviolability of the territory of the Russian Federation are revealed. The form of manifestation of foreign policy influence on the territorial integrity of the Russian Federation is determined. State sovereignty is a sign of an independent state and the study of its significance, essence, and direction of development is an important condition for the national and state security of the country. The findings of this study can be used as a basis for further research in the field of state sovereignty and the process of globalization. Also, these conclusions can be used in the process of formation of state policy by the subjects of the state strategy. The scientific novelty of the research is that the authors on the basis of a wide range of sources comprehensively investigated the legal basis of state sovereignty of the Russian Federation. Some aspects of this legal framework are considered for the first time. For example, as a result of the study of the territorial prevalence of state sovereignty in the territory of Russia, the cause-and-effect link was established between the absence of the right of the constituent entities of the Russian Federation to secede from the Russian Federation and the specifics of federal legislation regulating these issues. It was also determined that in the event of a threat to state sovereignty from the constituent entities of the Russian Federation, there are opportunities for its elimination at the level of federal legislation.

Keywords : The Russian Federation, state sovereignty, independence and autonomy, constituent entities of the Russian Federation, national and cultural autonomy, self-determination, equality of peoples, integrity of the state.

I. INTRODUCTION

A. Introduction of the Problem

Both now and in the past, state sovereignty was one of the main and integral features of an independent state, including the Russian Federation. In terms of state and national security of any country, issues of sovereignty are of primary importance, and they are important for modern Russia. In the Russian Federation, the issue of preservation and further development of state sovereignty is relevant. The study of the legal foundations of the state sovereignty of the Russian Federation is of great importance for understanding the essence, importance, and direction of the development of sovereignty in the modern world in the context of globalization, both in Russia and in other countries. Given the fact that sovereignty extends to the entire territory of the Russian Federation, there may be a causal link between the specifics of federal legislation and the lack of the right of constituent entities of the Russian Federation to secede from the federation. In order to define state sovereignty and to use this concept in the study, it is necessary to define the concept of a state. It is generally accepted that a state is an organization with a special apparatus of government, issuing laws binding on all persons, and having supreme political power throughout the country. The main purpose of the state is in the management of society. Effective management of society depends on the quality of domestic and foreign policy. In order to provide independence of internal and external affairs of a state, they need sovereignty, which guarantees their inviolability on the part of other countries. State sovereignty is understood as the supremacy of state power within the country and its independence from external influence.

B. Importance of the Problem

Despite the obvious relevance of the study of the legal basis of state sovereignty of the Russian Federation, the necessary attention to this problem was not paid in the scientific literature. Nevertheless, various authors conducted studies of some aspects of a problem of studying of legal bases of the state sovereignty of Russia.

Some ways of solving this problem have been revealed in fundamental research by Lazarev [1], Maklakov [2], Paliyenko [3], Sergeev [4], Mishin [5], Dobrynin [6].

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Some aspects of the legal basis of the state sovereignty of the Russian Federation have been studied in scientific articles of Abdrakhmanov [7], Bekirova [8], Byrdin [9], Verbitskaya [10], Voronkova [11], Gadisov [12], Kamolov and Prokopovich [13], Karnaushenko [14], Klimenko et al. [15], Konurov [16], Podgornyi [17], Rodionov [18],

Romanchuk [19], Stoyakin [20], Tynyanova [21], Chernov [22], Sharifov [23], Sherstoboev [24], Shukbarov [25].

II. METHODS

In the process of preparation of a scientific article, both general scientific and specific scientific methods of cognition were used. The analytical method of cognition allowed conducting a legal analysis of the relationship of state sovereignty between the Russian Federation and the constituent entities of the Russian Federation initially in its individual aspects, then in the form of a single and integral phenomenon. With the help of the statistical method, various statistical data were analyzed that were connected to legal contradictions contained in the name and preamble of the Federal Treaty "On delimitation of competence and powers between the federal bodies of state power of the Russian Federation and the authorities of the sovereign republics within the Russian Federation".

On the basis of the system-structural method of cognition, there were established structural links between the lack of the right of constituent entities of the Russian Federation to withdraw from the Russian Federation and the specifics of federal legislation governing these issues. The legal rules of the Constitution of the Russian Federation, the Declaration on Principles of International Law concerning Friendly Relations and Cooperation between States, and the UN Charter were studied and analyzed using the formal-legal method.

III. RESULTS

The study has found that state sovereignty is not divided between the Russian Federation and the constituent entities of the Russian Federation, even if they have certain autonomy. The Constitution of the Russian Federation establishes the link between the sovereignty of Russia, the constitutional and legal status, the powers of the Russian Federation and its constituents entities with the will of the people inhabiting this state. In view of the above, the multi-ethnic people of the Russian Federation are a source of state sovereignty.

It is determined that the Constitution of the Russian Federation does not provide for the possibility of sharing Russia's sovereignty with other states. The Russian Federation is entitled to participate in interstate associations and partially transfer its powers to them on the basis of international agreements. Such a procedure is possible only if it does not contradict the Constitution of the Russian Federation and does not entail restrictions on the rights and freedoms of man and citizen. By delegating a part of its powers to international associations, a state does not delegate to them its sovereignty in whole or in part. Thus, only a part of the powers of Russia is transferred to international associations.

It is revealed that at present the provision on the

consolidation of state sovereignty in the Constitution of the Russian Federation and its extension to the entire territory of the country is considered by various researchers from four points of view:

1. State sovereignty forms the unity of the people at the legislative level. As a result, the country becomes a holistic system in all policy manifestations;

2. On the one hand, the legislative consolidation of state sovereignty in the Constitution of the Russian Federation establishes the behavior of the constituent entities of the Russian Federation, on the other hand – is dictated by the same constituent entities. In view of the above, there is two-way communication, which determines the final behavior of all constituent entities of the Russian Federation in each of their areas of activity;

3. The essence of the constitutional state is manifested in the form of restrictions on the power of the federation in relation to its constituent entities. The restriction is objective and appropriate, so it cannot be overcome in a legal way;

4. The federal structure of the state is being formed. The Constitution of the Russian Federation and federal legislation are the supreme normative legal regulations. Laws of constituent entities of the Russian Federation cannot contradict them.

Internal political factors ensuring integrity and inviolability of the territory of Russia are revealed:

- inability of the Russian Federation to transfer a part of its territory to a foreign state;

- prohibition of the activities of organizations whose work is aimed at undermining the independence and autonomy of the state;

- internal political factors directly affecting the state sovereignty and implying mandatory implementation of the necessary measures of protection;

- the absence of the right of the constituent entities of the Russian Federation to secede from the state.

There is a need to recognize the causal relationship between the lack of the right of the constituent entities of the Russian Federation to withdraw from the Russian Federation and the specifics of federal legislation governing these issues – in the event of a threat to state sovereignty from the constituent entities of the Russian Federation, at the level of federal legislation there are opportunities for its elimination.

It is revealed that the foreign policy influence on the territorial integrity of the Russian Federation is manifested in the establishment of certain concepts in the fundamental international legal regulations – "self-determination", "equality of peoples" and "integrity of the state". In this case, the most important task will be to maintain a balance of practical expression of these concepts through the development and organization of measures to prevent disintegration processes.

IV. DISCUSSION

The state sovereignty of the Russian Federation, which extends to the entire territory of the state, is legally established in Articles 3-5, 67 and 79 of the Russian Constitution.

Now Articles 3-5 are a part of the first chapter of the Basic Law of the Russian Federation which is called "Bases of the constitutional system".

The Resolution of the Constitutional Court of the Russian Federation as of June 7, 2000 No. 10-P establishes the normative definition of this concept: sovereignty, which, based on the meaning of Articles 3-5, 67 and 79 of the Constitution of the Russian Federation, assumes independence and supremacy of state power, completeness of legislative, executive and judicial power in its territory and independence in international relations, forms a necessary feature of the Russian Federation as a state that characterizes its constitutional and legal status.

Kamolov and Prokopovich argue that the sovereignty of the Russian Federation extends to the entire territory of the state, the territorial boundaries of the country are the spatial limit of the influence of state power [13].

As noted by Konurov, the supremacy of power within the state is expressed in the fact that within the territory of the Russian Federation it is not allowed to create any other power that can exist simultaneously with the state power [16].

According to Abdrakhmanov, state sovereignty does not presuppose the simultaneous existence of two levels of authority, possessing sovereignty and being in the same system of power, which would have the same supremacy. This means that any constituent entities of the Russian Federation do not have full sovereignty equivalent to the sovereignty of the Russian Federation [7].

Chernov argues that the federation acts as a single sovereign both in international relations and at the domestic level, having the right to the inalienable supremacy of power in its territory [22].

Based on this, it becomes clear that sovereignty is not divided between the Russian Federation and its constituent entities, including those with certain autonomy. Sharifov believes that the constitutional and legal provisions establish a link between the sovereignty of the Russian Federation, the constitutional and legal status, the powers of the Russian Federation and the constituent entities of the Russian Federation with the will of the people inhabiting this state [23]. By implementing the principle of equal rights and self-determination of peoples, the multinational people of the Russian Federation legislatively defined the sovereign statehood of the Russian Federation as a historically established state unity at the constitutional and legal level.

The basic law of the Russian Federation rationally distributed competence and authority vertically – between the state and its constituent entities. It should be mentioned that in accordance with the name and preamble of the Federal Treaty as of March 31, 1992 "On the Delimitation of Powers between the Federal Bodies of State Power of the Russian Federation and the Authorities of the Sovereign Republics within the Russian Federation", the republics act as sovereign states in the system of law.

In view of the above, there is a contradiction, which is reflected in the name of the Federal Treaty (sovereign states within the Russian Federation). It can be assumed that at the time of the adoption of the Treaty, the sovereignty of state power was not associated with its supremacy in a certain territory, but with the competence, jurisdiction. Such an opinion was spread during the Soviet period of statehood

development, which was expressed in the unconditional centralization of power, in the rejection of the political and legal status of the relations between the federal bodies of state power and the bodies of state power of the constituent entities.

This contradiction was subject to settlement in the Constitutional Court of the Russian Federation in the Decision as of June 7, 2000 No. 10-P. It stated that the application of Part 2 of Article 5 of the Constitution of the Russian Federation to the meaning of the definition of "republic (state)" did not mean the recognition of state sovereignty of these constituent entities of the Russian Federation. This only reflected the features of their constitutional and legal status, which were associated with historical, national and other factors.

Thus, the current Constitution of the Russian Federation separates the jurisdiction between the state and the constituent entities of the Russian Federation. It also allows for the possibility of their distribution and delegation on the basis of treaties on the delimitation of powers within the state, recognizes the autonomy and independence only of the Russian Federation.

In view of the above, the vast majority of such agreements in the future should be brought in line with the Constitution of the Russian Federation; each restriction or division of Russian sovereignty has no legal force and should be completely excluded. The provisions of treaties providing for the sovereignty of the constituent entities of the Russian Federation and the related restrictions on the autonomy and independence of the Russian Federation and its status, as well as reflected in the fundamental documents of the constituent entities of the Russian Federation, cannot be used as they contradict the Basic Law of Russia. It should be mentioned that the Constitution of the Russian Federation does not provide the possibility of sharing Russia's sovereignty with other states. In accordance with Article 79 of the Basic Law of the Russian Federation, the state is entitled to participate in interstate associations and partially transfer its powers to them on the basis of international agreements. Gadisov notes that this procedure is possible only if it does not entail restrictions of human and civil rights and freedoms and does not contradict the Constitution of the Russian Federation. The delegation by the Russian Federation of a part of its powers to international associations is not equivalent to the delegation of its sovereignty or part of it [12]. According to Stoyakin, the autonomy of the Russian Federation is not the totality of its jurisdiction, it is an inalienable right inherent in the state. In fact, it is manifested in the powers of the country but is not equated to them. Therefore, international associations are given only part of the powers of the Russian Federation, if it does not contradict the foundations of the state system of the country, including its sovereignty [8]. Bekirova believes that the independence and autonomy of countries are also expressed in the fact that within the limits of international law all states have equal rights and obligations. In view of the above, each country shall respect the rights of other states, determine and implement its interests and relations with other countries in accordance with international law and other rules generally recognized at the international level [8].

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Tynyanova argues that a characteristic feature of state sovereignty is that the borders of states can be changed peacefully and by agreement in accordance with international law [21]. Also, state sovereignty is characterized by the right of different countries in accordance with their interests to determine their affiliation to any international organizations, as well as their participation in the agreements.

At the legislative level, the sovereignty of the Russian Federation is established in the Basic Law of the Russian Federation and extends to its entire territory. This provision is currently being considered by various researchers from four perspectives.

1. State sovereignty forms the unity of the people at the legislative level. As a result, the Russian Federation becomes a holistic system in all policy manifestations. In order to prevent the unity from becoming hypertrophied, the Constitution of the Russian Federation establishes a multinational state, the presence of several competing political parties.

2. On the one hand, the legislative consolidation of state sovereignty in the Constitution of the Russian Federation establishes the behavior of the constituent entities of the Russian Federation, on the other hand – is dictated by the same constituent entities. Thus, there is two-way communication, which determines the final behavior of all constituent entities of the Russian Federation in each of their areas of activity. This includes protection from arbitrariness, the establishment of the order of actions of the state in certain situations, the separation of powers and other rules of conduct familiar to society.

3. The legislative consolidation of state sovereignty in the Basic Law of the Russian Federation reveals the essence of the constitutional state in the form of restriction of the power of the Russian Federation in relation to its constituent entities. Of course, in this case, there is an objective and reasonable restriction, which cannot be overcome by legal ways.

The sovereignty of the country is manifested in the fact that the state power is bound by the obligations established in the Constitution of the Russian Federation, and all its representatives are legally responsible for their actions. The principles and rules recognized by society are part of the legal system of the Russian Federation; the government at the federal level has no right to invade the sphere of activity of constituent entities more than it is defined by the current legislation.

4. The legislative consolidation of state sovereignty in the Constitution of the Russian Federation is directly related to the federal structure of the state. The Constitution of the Russian Federation and federal legislation are the supreme normative legal regulations that do not need to be confirmed at the level of the constituent entities of the Russian Federation. At the same time, nothing shall contradict them in any case. All contradictions of legal regulations of constituent entities of the Russian Federation to the Basic Law of the Russian Federation and the federal legislation will be illegal and invalid. If such contradictions are found, the conflicting rule or provision must be ignored in favor of federal laws.

According to many researchers, the provision on ensuring the integrity and inviolability of its territory by the Russian

Federation applies not only to foreign policy intervention but also to domestic political factors. These include factors such as:

- legal impossibility of transfer by the Russian Federation of any part of its territory to another state, even on the basis of an international treaty [15];

- prohibition of the activities of organizations whose work is aimed at undermining the independence and autonomy of the Russian Federation [25];

- internal political factors affecting state sovereignty and imposing obligations on public authorities to perform the necessary measures to protect the independence of the state, its sovereignty, and integrity, to protect against intervention, to ensure security [18];

- the absence of the right of the constituent entities of the Russian Federation to secede from the state;

- in the event of a threat to state sovereignty from the constituent entities of the Russian Federation, the federal legislation provides the possibility of its elimination.

Foreign policy influence on the territorial integrity of the country is revealed in the establishment of certain concepts in the fundamental international normative legal rules. An example of this is the relationship of such concepts as "self-determination", "equality of peoples" and "integrity of the state" [14]. Maintaining a balance of practical expression of these concepts is of great importance for the Russian Federation.

It is possible to maintain a balance among concepts through the development and organization of measures to prevent the processes of disintegration. In view of the above, the decisions of the Constitutional Court of the Russian Federation as of June 7, 2000 No. 10-P and as of March 3, 2004 No. 5-P "On the Case of Checking the Constitutionality of Part 3 of Article 5 of the Federal Law "On National and Cultural Autonomy" in Connection with the Complaint of Citizens A.H. Dietz and O.A. Schumacher" are of interest.

The Constitutional Court of the Russian Federation ruled that in the modern system of international law self-determination was one of the basic human and civil rights. The Regulations also establish that all peoples should have this right. Thus, they will be able to act in their own interests, protect them at the international level, freely determine their political status and ensure their economic, social and political development. Each country undertakes to "promote and respect the right to self-determination".

In accordance with the Declaration on Principles of International Law Concerning Friendly Relations and Cooperation between States, the UN Charter adopted in San Francisco on June 26, 1945, the right to self-determination is considered one of the basic, fundamental principles of international law. Currently, there are several legitimate ways to exercise this right: the creation of a sovereign and sound state, the accession of its territory to an independent state or association with it, the entry under its jurisdiction, the establishment of a new political status.

Article 29 of the Universal Declaration of Human Rights stipulates that the right to self-determination must be duly recognized and respected in the exercise of the rights and freedoms of other peoples. In accordance with UN General Assembly resolution 41/117 as of December 4, 1986, "the development and protection of one category of rights can never serve as a pretext or justification for the liberation of states from development and protection of other rights". Otherwise, the exercise of any right will be objectively impossible. It should be mentioned that the rules of international law exclude the possibility of using the right to self-determination in an attempt to undermine the sovereignty of a state.

Thus, according to Podgorny, the rules of international and domestic law do not deny the existence of the right to self-determination, but establish certain restrictions on its use [17]. The Resolution of the Constitutional Court of the Russian Federation as of July 31, 1995 No. 10-P specifies that the purpose of preservation of the integrity of the Russian Federation shall comply with the international legal regulations on the right of the people to self-determination.

In order to substantiate this position, the court referred to the Declaration of Principles of International Law. In accordance therewith, the application of the right to self-determination could not be interpreted as a combination of any action that could lead to a violation of the sovereignty or territorial integrity of the country. In accordance with this, the Constitution of the Russian Federation does not establish the right of constituent entities of the Russian Federation to secede from the federation. Accordingly, the Basic Laws of the constituent entities of the Russian Federation should not contradict the Constitution of the Russian Federation; otherwise, they will be invalid.

In view of the above, international normative legal regulations aimed at violating the territorial unity of the country are incompatible with Russian legislation. According to Romanchuk, the principle of inviolability of state borders is fundamental for the long and secure existence of the state, it cannot be ignored. In another situation, the preservation of peace and security becomes impossible [19]. That is why the Constitution of the Russian Federation recorded a clear, unambiguous wording: not equality and self-determination of peoples in general, but equality and self-determination of peoples in the Russian Federation.

Sherstoboev notes that within the framework of international law, the solution of problematic issues in relations between nations and national minorities is revealed in the application of measures ensuring the maximum protection of human and civil rights [24]. In doing so, the state should refrain from any attempt to discriminate against members of national minorities. Otherwise, it will be regarded as a violation of the rules of international normative legal regulations.

Countries that are members of the UN Security Council have assumed the responsibility to protect and promote the identity of national minorities in all its manifestations. These states declared respect for the representatives of national minorities, as well as further ensuring their right to self-determination.

These principles were also established in Russian normative legal regulations. The Constitution of the Russian

Federation suppresses any attempts to oppress those who consider themselves to be national minorities. This proclaims the freedom of self-determination. The Constitutional Court of the Russian Federation, in its Decision No. 5-P as of March 3, 2004, stated that the legislation of the Russian Federation qualified national and cultural autonomy as one of the institutions of self-determination of peoples and one of the types of associations established by law.

The Constitution of the Russian Federation and internationally recognized principles and norms of law form the duties of the state apparatus to regulate and protect the rights of national minorities. The nature of this settlement is predetermined, as well as the legal framework established by the legislator in the process of its implementation.

In determining the legal status of national and cultural autonomies, the Russian legislator proceeded from the fact that the basic purpose of these autonomies was national and cultural self-determination, i.e., ensuring the viability and independence of an ethnic group in the position of a minority in a certain territory.

Now, current legal regulations of national and cultural autonomies in the Russian Federation comply with the Constitution of the Russian Federation, the relevant international legal obligations of the Russian Federation and federal legislation. It defines the legal basis of national and cultural autonomy, which contributes to the creation of conditions for interaction between the state and society to protect the interests of Russian citizens in the process of their choice of ways and forms of their development, including measures to support the state's identity, various elements of national culture.

V. CONCLUSION

State sovereignty is the independence and autonomy of the supreme state power (state) both at the domestic and international level. Currently, researchers distinguish two aspects of state sovereignty: "internal" and "external". The sovereignty of the Russian Federation extends to the entire territory of the country. Each constituent entity of the Russian Federation has certain autonomy, but the constituent entities do not have state sovereignty [26]. Consequently, they do not have the right to secede from the state. Of course, there is a causal relationship between the lack of the right of the constituent entities of the Russian Federation to withdraw from the Russian Federation and the specifics of federal legislation governing these issues – in the event of a threat to state sovereignty from the constituent entities of the Russian Federation, at the level of federal legislation there are opportunities for its elimination.

Based on the results of the study, it is possible to update the existing Russian legislation, to eliminate many legal gaps, contradictions in the field of contractual division of powers between the federation and the constituent entities of the Russian Federation (where the republics act as sovereign states), and to provide the guarantees of the elimination of threats to state sovereignty on the part of constituent entities of the Russian Federation.

It also seems appropriate to create a system of public agencies that ensure the practical implementation of these changes and the organization of legal institutions that provide the most effective control and regulation of the process of making changes.

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