A Review Of Constitutional (Statutory) Courts: Demand And Current Problems

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Abstract

The courts of justice, which must be established in accordance with legal requirements, handle the activities of the judiciary and settle disputes, defend public rights, further and implement justice, and establish divine limits, as stated in the country's constitution. The article discusses the judicial authorities of the Russian Federation's constituent countries, highlighting their history and current situation while also analyzing the issues that have arisen during their formation, growth, and establishment and offering potential solutions. The author examines national and local laws that specify the constitutional (statutory) courts' legal standing in the constituent parts of the Russian Federation. The significance of the legislative and executive branches in the constituent parts of the Russian Federation is contrasted with that of these state authorities. It is noted that the Russian Federation's Constitutional Court and the constitutional (statutory) courts of the Russian Federation's constituent entities have separate functions. On the one hand, they are a component of the system of state authorities of the Federation's subject, which was set up independently by the subject in accordance with the fundamentals of the constitutional system and guiding principles established by federal law. On the other hand, they are courts of a subject of the Russian Federation in the federal constitutional law-established elements of the Russian Federation's unified judicial system. After conducting research, the author comes to the conclusion that maintaining the constitutional (statutory) courts within a single judicial system is essential to maintaining constitutional values.

Keywords: Constitution of the Russian Federation, Law, rule of law, federal constitutional law, constitutional (charter) courts, legislative, executive and judicial authorities.

Introduction

In the Russian Federation's state and legal life, the judicial bodies of constitutional control are a relatively new and developing institution. The establishment of constitutional (statutory) courts in its constituent entities is not expressly mandated by the Russian Federation's Constitution of 1993. The provisions of the Russian Federation's Constitution, which establish that republics (states) and other subjects are organized and operate on the basis of constitutions and charters, and whose compliance with which the subjects of the Federation themselves have control, indirectly gave rise to such a right for the Russian Federation's subjects. Because there was no corresponding federal act, the constituent parts of the Russian Federation were therefore free to choose the organizational and legal structures of such control. The federal legislator has already attempted to divide state power vertically, not only between the legislative and executive branches of government but also within the judicial branch of government, by allowing for the possibility of establishing constitutional (statutory) courts. As a result, the Russian Federation's federal structure directly affects the development and operation of the judicial bodies responsible for constitutional control in each of the constituent parts of the country. The Federal Constitution establishes a unified federal judicial system for the Russian Federation, which includes courts operating within its constituent entities but excludes them as independent judicial systems.

However, the subjects' legislative control and discretion are ultimately responsible for determining how to establish constitutional and statutory courts, how to grant them authority, and other matters. In the 19th century, when the issue of drafting laws takes place, comparative law studies become very important. Because lawyers formulate laws based on legal studies. In 1900, for the first time, the Congress of Comparative Law was launched in Paris, the capital of France, and in this congress, the usefulness of the subject and method of comparative study was discussed and evaluated. This congress attracts the opinion of lawyers. Therefore, the year 1900 has been called the birth of comparative law.

In this year, Roman German law and Common Law law have been studied, and after the Second World War, the law of socialists and the laws of third world countries will be studied in comparative law, and this process will expand. Here, it is not bad to point out that there is a difference of opinion among jurists regarding the issue of comparative law. Some jurists believe that private law is the subject of comparative law studies. Some others consider the subject of comparative law to be the laws of several countries that are consistent and harmonious with each other, and a group believes that legal systems in general constitute the subject of comparative law. But today, all fields of law and legal systems, as well as the laws of different nations in all eras, can be the subject of comparative law.

The Role of the Court in Law

The jurisdiction of courts can be divided into two categories: inherent jurisdiction, local jurisdiction. Local jurisdiction often specifies the jurisdiction of courts in terms of geographic territory; Therefore, the general court, which is the first in the class, judicial - in type, general - and in degree, "has inherent jurisdiction to deal with all disputes, except disputes that are placed in the jurisdiction of another court according to the law. But this general court cannot be competent to deal with all lawsuits that occur in a country.

Therefore, each of the public courts, in terms of geographical territory, deals with disputes only within its limits; And in other words, the courts are divided locally to localize the lawsuits, which is local jurisdiction. Therefore, competence can be defined as follows: competence is the ability (right) and duty that, according to the law, courts and judicial and non-judicial authorities have in dealing with lawsuits (complaints) and resolving disputes about it.

The role of the court in international arbitration is one of the issues that the arbitration laws of countries have expressed different views on. Courts play a role in the stage before the start of the arbitration, during the arbitration and after issuing the verdict. Countries in favor of international arbitration have always emphasized preventing the interventionist role of courts in arbitration and believe that courts should play a supportive role in international arbitration. On the other hand, some countries have included a wide scope for the intervention of courts in arbitration in their domestic laws.

One of the institutions that belong to modern societies and are considered as the main branches of communication with society are public relations. This institution, which was initially formed to talk with people, gradually changed its nature with the increasing growth of the advertising function in public relations units. Since the beginning of the 20th century, many definitions have been considered for it. Currently, this institution is considered as the most popular part of any group in the country, and it was created with the aim of facilitating communication between organizations with the internal and external environment, audiences, public opinion, media and other organizations. At the same time, by performing the functions of providing information and finding information, creating and maintaining two-way communication and mutual understanding between the organization and the audience, gaining the trust and participation of the audience in the organization, helping the management to keep pace with environmental changes, bringing the attitudes of the audience closer to the organization and vice versa to the dynamics.

And it helps the growth and development of organizations. But the important point is that despite the existence of more than 50 years since the formation of public relations in government organizations, its functions are still far from its real philosophy in organizations and it has not been able to achieve its proper position and play its effective roles in the field of internal and external organizations. According to the belief of many public relations specialists and experts, the current position of public relations in the country is not very satisfactory and the existing capacities are not well utilized, and no significant progress has been made in the legal field. Although some experts believe that there are good and up-to-date laws in the field of regulations and legal frameworks, but their implementation guarantee and support is very weak and ineffective, and this has caused many public relations regulations to become unenforceable.

Methods

The comparative-legal analysis methodology allowed for the identification of the distinctive features of the constitutional (statutory) courts. Jurists say that comparative law is the study of the laws of two or more countries, and the result of these studies is finding commonalities and differences between the laws of these countries. Two points can be obtained from this definition: First, it is possible that the laws of two or more countries may be common in some ways and different in other ways. Second, these differences are in two categories, either partial and superficial or deep. The main task of comparative law studies is actually to find the differences, whether these differences are superficial or deep and fundamental. On the other hand, these differences may arise from various economic, political and social factors. However, the result obtained is that if these differences are minor, it does not cause a serious problem, but if the differences are profound, then the results of the legal studies will not be applicable. For example, it can be said that poor countries can never implement the economic solutions of advanced countries in their internal affairs. The content of ideas like

"constitutional control," "judicial system," "principle of unity," etc. was ascertained using the formal legal method of research.

Results and Discussion

The development and effective application of the federal principles of creating the Russian state can be seen in the implementation of constitutional (statutory) justice in one of the Russian Federation's constituents. Russian regions have the chance to settle conflicts of laws that arise between the two levels of state power as well as local self-government bodies in a civilized and judicial manner through the constitutional (statutory) justice bodies. In this regard, it is essential to maintain the institution of constitutional (statutory) courts of the constituent entities of the Russian Federation within a single judicial system in order to uphold constitutional values. As of today, 57 of the Russian Federation's constituent entities' constitutions and charters contain provisions for the establishment of constitutional and statutory courts. However, only 15 of these entities had courts when the 1993 Russian Federation Constitution was in effect. Therefore, the pace of constitutional (statutory) justice development in the constituent parts of the Russian Federation is currently slow. We believe that political considerations are the primary driving force behind the opposition to the establishment of constitutional justice bodies in the constituent parts of the Russian Federation. The state authorities of the Russian Federation's constituent nations do not want to add a new institution to the already established framework for communication between the two branches of government. If we're talking about a region that receives subsidies, another factor is, in our opinion, the deficiency of necessary financial resources in the budget of a constituent entity of the Russian Federation. Another reason could be the dearth of professionals qualified to conduct constitutional (statutory) legal proceedings in the constituent parts of the Russian Federation. Being a member of the constitutional control bodies is a form of research work. Contrary to traditional legal processes, constitutional justice primarily consists of rulemaking activities that are carried out through judicial procedure rather than being a purely law enforcement activity. The peculiarity of judicial constitutional control is that it takes many months to research and analyze both domestic and foreign laws before a constitutional case can even be considered. This fact implies that you require a different education and level of professional training.

There's one more justification. The lack of these courts is also justified by the scientific literature, which cites a dearth of cases falling into this category. We believe this to be a significant factor. The laws of the Russian Federation's constituent nations outline seven stages in succession for the judicial review of constitutional issues. Only six months after the date the appeal was registered in this case can the court make a final determination? It should be noted that judgments rendered by the constitutional and statutory courts of the constituent parts of the Russian Federation have both a legislative and an enforcement function [1, p. 7]. The peculiarity of decisions is also evident in their composition, which consists of the court's own legal positions and the case's ultimate resolution [2, p. 21]. The legal arguments put forth by these courts incorporate the application of international, supranational, and national legal norms as well as, in some cases, the court's prior legal positions on particular issues [3, p. 14]. The purpose of the Constitutional Court's decision's operative portion is to remove the Constitutionally infringing act from the realm of law, whereas the reasoning portion of the decision refers to the future and serves both the preventive purpose of directing the legislator to specific constitutional standards from which it cannot stray [5, c. 37].

Although we also point out that the decisions of the constitutional review bodies receive a sizable amount of public feedback, are normative in nature, and have an impact on the interests of numerous citizens and organizations, a lengthy review period seriously undermines the weak authority of these bodies and does not support the practice of constitutional and statutory courts in reviewing cases. We believe that cases should be considered by general jurisdiction courts, arbitration courts, and constitutional (statutory) courts within a reasonable amount of time because they are all a part of the Russian Federation's unified judicial system. e. the calculation of procedural time limits should be done using a single procedure. The constitutional (statutory) courts of the Russian Federation's constituent nations are state authorities by virtue of their legal status, and we believe their importance to be on par with that of these nations' legislative and executive branches. The fact that they are based on the rules and standards of legal proceedings demonstrates their judicial nature. The court strikes a balance between the interests of the individual, society, and the state. It serves as the most significant stabilizing factor in public relations, making it a powerful institution capable of protecting citizens' rights and freedoms as well as protecting branches of government and society from conflict. The constituent entities of the Russian Federation's constitutional (statutory) courts have a dual nature [7, p. 964].

First of all, they are a component of the Federation's subject state authorities system. Second, they are courts of a subject of the Russian Federation in the unified judicial system of the Russian Federation, the components of which are established by federal constitutional law. The federal legislator giving its decisions a mandatory status is the primary distinguishing factor that shows the transformation of constitutional (statutory) courts into a full-fledged branch of government. Any action that is determined by a constitutional (statutory) court to be in violation of the Basic Law of a constituent entity of the Russian Federation is immediately void and cannot be

applied. A state must be governed by the rule of law in order for it to exist, and this requires the development of constitutional justice both at the level of the Federation and in each of its constituent entities. Even at the regional level, Russia's government is currently undergoing reform. In these circumstances, the establishment of constitutional (statutory) courts provides a means of resolving issues pertaining to the creation of a single legal framework, ensuring the supremacy of the constitution (charter), and safeguarding the basic liberties and rights of every citizen.

Summary

As was already mentioned, 15 of the Russian Federation's constituent states currently have constitutional (statutory) courts in place and successfully running. As part of the nation's ongoing judicial reform, these courts have grown to be full-fledged, independent, and independent judicial authorities. In contrast to those subjects of the Federation where these bodies are not established, they offer citizens additional guarantees for the protection of their constitutional rights and freedoms through their activities. Due to the violation of the integral system of constitutional justice caused by the lack of constitutional (statutory) courts in the constituent entities of the Russian Federation, various methods have been developed to implement constitutional and legal institutions, including safeguarding citizens' constitutional rights and freedoms. However, practice demonstrates that the constitutional (statutory) courts ceased to operate as a body of the unified federal judicial system as a result of the politicized and short-sighted decisions of the heads of individual subjects to abolish the latter, having not had time to prove themselves as a full-fledged branch of government. For instance, the articles defining the status of the Constitutional Court of the Republic were deleted from the Constitution of the Republic by the Supreme Soviet of the Republic of Mordovia in a resolution dated February 16, 1994, without any justification. The Chelyabinsk Region Statutory Court was dissolved as a legal entity by an order of the Legislative Assembly dated March 1, 2014, "in order to optimize budget expenditures.". From 1 January 2014 to 31 December 2016, the Law of the Republic of Buryatia "On the Constitutional Court of the Republic of Buryatia" was suspended by the Law of the Republic of Buryatia of 14 November 2013, 92-v, with its subsequent abolition. Due to its inaction, an Act of the Republic of Tuva was passed on January 11, 2019, abolishing the Constitutional Court of the Republic of Tuva. There may not be a need to institutionalize constitutional justice for the following reasons: the reduction in the

authority of parliament; the Constitutional Court's appropriation of political power; the existence of an already effective control system; inconsistency with the existing legal culture; inconsistency with the appointment of judges to democratic principles; and the absence of appeals [8]. It is possible to divide up the following methods as to how judges of constitutional courts are appointed: 1) selection by the executive and the legislature; 2) selection by the legislature; 3) selection by the executive, the legislature, and the judiciary; 4) selection by a special commission; and 5) appointment by the executive [9, p. 4]. The absence of constitutional control bodies in the constituent entities, as well as the delay in their formation, violate the balance of regional authorities, the development of a system of "checks and balances," and most importantly, the application of the constitutional principle of dividing state power into three branches, which is necessary not only for the federal level but also for the organization of state power in the constituent entities. It would seem necessary to draw some conclusions and make some recommendations for enhancing constitutional (statutory) justice in the constituent parts of the Russian Federation in light of the aforementioned.

Conclusions

The bodies of statutory (constitutional) justice are an integral part of the judicial chain connecting the constituent parts of the Russian Federation. They simultaneously safeguard the application of constitutions (charters), the adherence to them by normative legal acts of state and local authorities operating at the regional level, and protect the primacy of the Russian Federation Constitution, thereby helping to maintain the balance of interests between the Russian Federation and its subjects. A subject of the Federation becomes a state when it has its own judicial body, which then exercises judicial authority through constitutional proceedings in order to defend the constitutional order, basic civil and human rights, uphold the rule of law, and ensure that the Constitution (charter) of the subject of the Federation is followed throughout its territory. The institution of power that strengthens constitutional legality and upholds the stability of the constitutions and charters of the subjects of the Russian Federation is the constitutional (statutory) courts. They are helpful in enhancing public administration in the Russian Federation's constituent parts and, most importantly, in coordinating regional and federal interests. The functioning of the constitutional (statutory) courts of the constituent parts of the Russian Federation ultimately ensures the coherence of its legal system. The bodies of constitutional justice are in charge of preserving the consistency of constitutional provisions and expanding the concepts enshrined in them [10, p. 113].

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