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DOI <https://doi.org/10.32782/apfs.v045.2023.25>*Mammadov Tural Xalid*ORCID ID: <https://orcid.org/0000-0003-1838-7541>*Ph.D. candidate**Department of Political Science and Sociology of Baku State University***METHODOLOGICAL FOUNDATIONS OF THE CONCEPT OF GOVERNANCE REGION****Introduction**

One of the pivotal categories in political science, the governance concept, along with its manifestations, characteristics, and mechanisms of realization, has emerged as a paramount subject of discourse across all phases of the evolution of public political thought. Analytical investigations have coalesced along diverse vectors, culminating in the formulation of significant paradigms pertaining to various facets of the governance phenomenon. It is posited that among these vectors, the most critical and relatively underexplored pertains to the issues of governance division and the allocation of powers.

Historically, governance is perceived as a concept whose constituent subjects consistently aspire to its expansion and reinforcement. This characteristic is regarded as one of its most formidable attributes. Therefore, scholars engaged in scrutinizing the nature of governance have delved into various deliberations concerning its constraints. These deliberations have been instrumental in formulating the concept of the separation of powers, which occupies a salient position in the vectors of the analysis of the governance concept. The essence of the separation of powers lies in achieving the organization of state governance in a democratic manner.

The degree of problem elaboration. It is delineated in the works of Plato [5], Aristotle [6; 17], John Locke [10; 18], and Montesquieu [13], establishing the general scientific methodology of the issue and justifying the necessity of the separation of powers.

The idea of the separation of powers has perennially occupied a central position in our country's discourse, with various facets of this idea subjected to scholarly exploration in Azerbaijan. Pertinent issues in our country have been investigated by researchers such as V. Omarov [4], V. Jafarov [1], R. Aliyev [2], A. Aliyeva [3], and others.

Objective: The principal aim of the research is to systematically analyze the historical development of the separation of powers, assess its advantages and disadvantages, and scrutinize the implementation of the principle of the separation of powers through a comparative examination of foreign experiences.

Methods: The proposed research is grounded in the methodological frameworks of political science, constitutional law, philosophy, history, and sociology, converging at the interdisciplinary intersection of these disciplines. Additionally, the research extensively employs structural-functional analysis, comparative analysis, and historical approaches.

Main section.**Principal Ideas on the Division of Powers in the History of Public Political Thought**

The division of powers is a Western political theory concerning the structure of national governance and the distribution of power resources. It advocates for the decentralized management of three national functions – legislative, executive, and judicial authority – by different bodies, emphasizing their independent execution and ensuring checks and balances. The system of the division of powers entails the independent implementation of legislative, administrative, and judicial powers by three separate organs, forming a system that scrutinizes and balances each other. This system is founded on the contemporary doctrine of the division of powers.

It is believed that the initial ideas about the division of powers trace back to ancient Greek social and political thought. "These ideas began with Socrates and his disciple Plato in ancient times and have continued with undiminished force throughout the centuries. Plato explored the ideal state and the ideal form of governance in his book 'The Republic,' and Aristotle continued this inquiry" [16, p. 82]. Plato's ideas on this matter are somewhat controversial. He does not attempt to divide governance based on the concrete institutional functions but associates it with people's professions in society. According to him, decision-making processes in state governance should be undertaken by philosophers, the execution mechanism by the military, and the passion function by artists and cultivators. Plato believed that "a good society is possible only when those in power are good and live in the light of philosophical wisdom" [8, p. 13].

According to Aristotle, every state organization involves a division of powers into three parts, and the well-being of a state depends on the condition of

these three parts. The organizational structure of each state differs based on the formation of these three parts. These three parts are the legislative organ, the executive organs, and the judicial organ. "Aristotle, who developed the concept of the tripartite governance, argued that governance could be realized through three functions" [17]. Aristotle's thoughts on the organization of state governance have found expression in his work "Politics" [6], and many consider him the originator of the idea of the division of powers. Indeed, Aristotle divides state governance into three parts, but he associates it entirely with the structure of state administration, not state governance itself. "Aristotle, touching upon the principle of the division of powers, differentiates the three functions in political organization: legislative, administrative, and judicial governance" [4, p. 13]. Aristotle does not discuss the independence of individuals performing specific functions and does not specify to whom they should be accountable. He also explains the "forms of governance (especially democracy, oligarchy, aristocracy, and monarchy) in the context of city-states" [17].

In the ancient era, discussions on the division of powers did not end with Aristotle. His principles of division gradually transitioned into Roman social and political thought. In this regard, one of Aristotle's successors, Polybius, is considered notable. Polybius aimed to prevent corruption by distributing political power among various institutions that could control each other [21]. In the Roman Republic era, Polybius, observing the Roman constitution, noted that power in Rome was divided into three main branches: the authority of consuls, the authority of the Senate, and the authority of the people. The responsibilities among these three branches were distributed in such a way that they would not gain dominance over each other.

During the early Middle Ages, the idea of the practical division of powers did not develop. According to some sources, Marsilius of Padua articulated certain ideas related to the division of powers during this period. However, it is not possible to directly associate his ideas with the known mechanism of the division of powers. He divided power into two: legislative and executive. The judiciary, in his interpretation, falls within the scope of executive power. The first power belongs to the people, while the second is reserved for the monarch. He emphasized that no judicial process should be left to the discretion of the judge and should be determined in accordance with the law [11, p. 38].

The problem of the division of powers regained significance in the 17th and 18th centuries. The revival of this issue was fueled by the decline of traditional feudal relationships, the emergence

of the bourgeoisie and banking segments in the transitional economic system, and the struggle for freedom. The desire and demands to break free from the shackles of absolute monarchy further strengthened this resurgence.

The origin of the modern understanding of the division of powers is more closely associated with the works of English philosopher Locke and French philosopher Montesquieu. Locke's legislative-executive-federative division transformed into Montesquieu's legislative-executive-judicial division [20, p. 35].

The principal concept underlying the theory of the separation of powers proposed by John Locke and Montesquieu posits that, for the assurance of political freedoms, the prevention of arbitrary rule, and the avoidance of the concentration of power in the hands of one person or social group and its abuse, it is imperative to partition this authority into three branches: legislative, executive, and judicial. The delineation of powers concept was initially introduced by John Locke in his treatise "Two Treatises of Government" [10].

John Locke is recognized as one of the trailblazers of the separation of powers principle, and the framework he articulated diverges somewhat from the universally accepted institutional type. He asserts: "Individuals forming a society terminate the state of nature among themselves by entering into a contract and transferring to a political society where a government will be established to resolve conflicts and punish wrongdoers" [10, p. 6].

Simultaneously, Locke underscores that legislative power belongs to the people and declares his opposition to absolute monarchy. According to him, the primary interest of individuals agreeing to be members of society is to freely and safely exercise their property. The primary means to ensure this is the laws accepted in that society. Legislative power is chosen and determined by the people. "The first and main purpose of all states is the establishment of legislative power" [10, p. 111].

As it appears, Locke is an advocate of representative state organization. He considers the people the source of all kinds of authority. According to him, the main task of the legislatively elected government is to safeguard human liberties. It should also be noted that Locke attributes the function of controlling the execution of laws to the legislative authority.

In general, to comprehend where Locke's idea of the separation of powers originated, one must scrutinize his stance on the origin of the state. It is believed that John Locke is a proponent of the concept of the "social contract" in the history of social and political thought. According to him, individuals exist in a "natural" state until the state is formed. Until the state, no one is an adversary

to anyone in society; everyone is the absolute ruler of their own property. In such an environment, the need arises for specific control mechanisms and institutions to ensure the security of natural rights and property. Thus, the first political institution, namely the state, is created through a consensus among individuals.

The state inherits political authority from the individuals who contribute to its formation. This authority involves safeguarding the interests of society members, encompassing aspects such as life, health, and freedoms. In Locke's conceptual framework, once again, the central position is ascribed to property, indicating his representation of the bourgeoisie class.

Locke's predilection for legislative authority is not fortuitous. For him, the law transcends everything in the state. It is not coincidental that Locke is characterized as one of the pioneering conceptualizers of the legal state. His approach to the law is specific; he places significant trust in laws. He observes that not every directive or command can attain the status of law. Acts and directives only achieve the status of law when they empower individuals to take steps serving their individual and collective well-being. Otherwise, they cannot attain the status of law. Locke emphasizes the imperative of laws being enduring.

Presenting legislative authority as a supreme organ, Locke advocates that other branches of power should be subordinated to it. The principle of the separation of powers, as it pertains to us, undoubtedly finds its closest perspectives in the views of Montesquieu. "The term 'separation of powers' in political theory was introduced by the French philosopher Montesquieu" [1, p. 10]. In his renowned work "The Spirit of Laws," Montesquieu meticulously analyzes this issue. Like Locke, Montesquieu divides political authority into three branches. However, unlike Locke, he perceives the third branch not as federalism but specifically as the judiciary. In this sense, it is Montesquieu who should be considered the foundational architect of the principle of "Separation of Powers" as we know it today. "The idea of the separation of powers by Aristotle and John Locke was further refined by the French philosopher and political figure Charles Montesquieu" [2, p. 12].

According to Montesquieu's position, every state comprises three branches of power: legislative, executive, and judicial. Montesquieu's tripartite division continues to constitute a significant part of various constitutional systems today [7, p. 25].

Initially, Montesquieu bifurcated authority into legislative and executive organs. The executive power was responsible for enforcing laws domestically and maintaining relations with other

countries. However, Montesquieu soon abandoned this classification and redefined the judiciary system as the third branch of power, merging executive authority to encompass both functions [9, p. 161].

The legislative power presented by Montesquieu is a comprehensive institution formed on the basis of representation in the true sense of the word. According to Montesquieu, he "rejects the laws of an enlightened feudal despotism, desires legislative power to be for the people, and declares that if there is no place for the people and aristocrats in the monarchical structure, it ultimately leads to despotism" [3, p. 120]. The legislative power depicted by Montesquieu is shaped through the electoral process.

While interpretations of Montesquieu's ideas on judicial power in political literature vary, in many cases, it is considered that he presents judicial power not as a complete authority but as a temporary institution that can align with one of the two branches of power. Initial readings of Montesquieu's ideas on judicial power do not align with the noted position. Montesquieu sees judicial power as a representative institution, similar to legislative power, with periodic activity intervals. In other words, he views judicial power as a representative institution.

Subsequent to the Enlightenment intellectuals in Europe, inquiries into the segmentation of authority are discerned in Kant's examinations on the constitutional state. As per Kant, the formation of the state relies on individuals willingly renouncing their innate rights and freedoms to partake in the liberties as constituents of the state.

Kant's notions on the separation of powers are expounded in his categorization of state typologies. Kant classifies states into three forms of governance based on sovereignty: autocracy, aristocracy, and democracy. However, in Kant's view, states can either be republican or despotic contingent on their mode of governance [14, p. 206]. Kant remarked, "democracy is absolute despotism because in this government, the executive, legislative, and judicial powers are consolidated" [14, p. 207].

In his classification, two criteria are considered: the participants in the legislative process and the existence of the separation of powers. According to the former, Kant divides states into three groups: autocracy, aristocratic state, and democracy. According to the latter, there are two types of states: despotic and republican.

According to Kant, executive power is exclusive to the leader of the state. The ruler appoints individuals to positions, resolves property matters, but risks metamorphosing into a despot when seeking to gratify personal inclinations. "Republicanism is the state principle that separates executive power

(government) from legislation. Despotism, on the other hand, is governance by the ruler's personal will" [15, p. 26].

Kant generally distinguishes judicial power from executive and legislative powers. He notes that the government can only validate judges elected by the people. In this regard, Kant expresses a congruent idea to Montesquieu concerning the organization of the judiciary, stating that the establishment of the judiciary for each case should be undertaken by the people. Thus, according to Kant, there is no requisite for the continual operation of the judiciary. For Kant, every judicial act is an autonomous manifestation of public justice. In this context, the term "government" is not applicable.

Towards the close of the 18th century, the conceptual and ideological phase of formalizing the principle of the separation of powers reached its culmination in Europe. Montesquieu, acknowledged as the progenitor of the ideals underpinning the constitutional forms of the modern principle of the separation of powers, etched his name in history. Concurrently, on the opposite side of the globe, the institutional underpinnings of the principle of the separation of powers commenced, with explicit reference to the United States of America. The nascent American statecraft applied the principle of the separation of powers, especially the "checks and balances" system introduced for the first time by Montesquieu, to the structure of the emerging statehood.

The application of the principle of the separation of powers in the United States was not straightforward. The challenges of implementing these principles are extensively scrutinized in the "Federalist Papers," authored by Hamilton, Jefferson, and Jay, who were foundational architects of American statecraft. The "Federalist Papers," composed immediately after the adoption of the United States Constitution in 1787, delved into the fundamental issues of American statehood, including those related to the separation of powers [12, p. 13]. It is contended that the authors of the "Federalist Papers" were influenced by John Locke and Montesquieu, and the ideas of the separation of legislative, executive, and judicial powers in the "Federalist Papers" primarily originated from these sources [19, p. 127].

Hamilton accentuates the theme of "checks and balances" in his ideas about the separation of powers. According to him, the relationship between the branches of government is pivotal. In his perspective, the executive power or the presidency wields society's sword and assumes responsibility for the distribution of wealth. The legislative power or the Senate determines the rules that society members adhere to. Among these branches of power, the weakest and least influential on society is exclusively the judicial power.

In American political thought of the 18th century, the mechanism of the separation of powers is conceptualized and realized more profoundly in comparison to European sources. As mentioned earlier, this principle attains institutional realization here, drawing more from practical applications. Notably, while European sources predominantly focused on legislative power among the branches of government, American political thought directs greater attention to the system of checks and balances, the mechanism of executive power, and specifically, the presidency. It is essential to acknowledge that American political thought revolves particularly around the initial five ideas concerning the presidential institution. The early comprehensive ideas about the powers of the presidency are primarily attributed to Hamilton. According to him, the president should embody the face of the people and execute executive power. Hamilton contends that the president should be granted the right of VETO, enabling the annulment of all congressional decisions. Additionally, he should have the authority to appoint leaders of all departments and consolidate control over financial, military, and foreign policy matters. The "Federalist Papers" extensively address federal unity, republican organization, freedom, and property security [12, p. 35].

Ideas regarding the principle of the separation of powers in American public political thought are further developed by Madison alongside Hamilton. Madison's thoughts on various aspects of the separation of powers find expression in the aforementioned "Federalist Papers." Madison notes that an absolute division of powers is not feasible, aligning his views with Montesquieu's comments on the necessity of mutual relations between branches of government. Madison illustrates this with examples from the internal constitutions of several U.S. states [23].

Like other representatives in the history of American public political thought, Madison also pays particular attention to mechanisms of control and balance within the problem of the separation of powers. However, it can be asserted that the institutionalization of the principle of the separation of powers in the U.S. state has influenced the blossoming of conceptual ideas in this field and the formation of independent research directions. One of these directions is considered the conceptual vector related to the presidency institution.

Contemporary Conceptual Ideas Regarding the Separation of Powers

In the context of the demarcation of authority, the objective is to thwart the misuse of power and safeguard the liberties and rights of citizens. Each governmental arm directs and constrains the others to establish equilibrium of power [25].

In contemporary circumstances, the realization of the principle of the separation of powers is undergoing alterations. The inclination toward fortifying the executive branch within the separation of powers started to manifest itself during the crises of the 20th century. This emanates from the executive authority's efforts to compartmentalize information and exhibit more agile operations in the continually changing political landscape compared to legislative and judicial bodies. Nevertheless, concurrently with this trend, the role of representative and judicial bodies has also undergone substantial changes, extending beyond the mere formulation of laws and surveillance of their execution in modern settings.

Montesquieu's concepts concerning the separation of powers have exerted a profound influence on the structuring of contemporary democratic societies and their constitutions. His theories underpin the core of the rule of law and constitute the foundation for numerous modern constitutional frameworks. It is imperative to acknowledge that Montesquieu's conception of the separation of powers is not absolute. Modern democratic systems have refined and adapted this theory in diverse forms to respond to the actualities of political authority and constitutional practices. Charles de Montesquieu's theories regarding the separation of powers have significantly shaped the architecture of modern democratic systems, encompassing the constitutions of the United States, France, and Germany [25].

Global experiences demonstrate that the pivotal issue in this domain is the substantial delineation of norms associated with budgets and fundamental social programs, core foreign policy measures, and, naturally, expansive public oversight of the competencies of executive organs. In this context, modifications in the qualitative content of the powers of government branches mirror the dynamics of the overall political process and are only reducible to the augmentation of the executive branch. This progression is more intricate and contentious.

In the contemporary era, certain nations have incorporated specific amendments to the concept of the separation of powers within their constitutions. "For instance, in the constitutional frameworks of certain Latin American nations, governmental power is distributed into four branches, with the fourth branch denoted as electoral power" [22].

The doctrine of the division of powers stands as a pivotal cornerstone in contemporary theories of liberal democratic states. Within the realm of liberal political theory, the doctrine of the division of powers serves as the paramount normative foundation. Liberal ideologies reject natural law or deontological ethics as a fundamental underpinning for collective organization and activity [24, p. 197].

The principle of segregating legislative, executive, and judicial powers, along with maintaining a delicate equilibrium between them, constitutes the decisive elements in ensuring the autonomy of the legal system. These principles are codified in the majority of modern constitutions. The theoretical "trias politica" system is deemed one of the foundational principles of Western democracy. While constitutional clauses may articulate these principles, the regulations governing the relationships between diverse powers, ensuring substantial control, are delineated in the executive directives.

Conclusion

The doctrine of the separation of powers constitutes the rational organization of supreme authority in a democratic state, wherein the agile mutual oversight and interaction of the state's supreme organs are realized as part of the checks and balances system within a unified government. The essence of this principle lies in the fact that the organizational and institutional aspects of the unitary state authority are relatively independent and divided into three branches – legislative, executive, and judicial powers. The efficacious execution of legislative functions, primarily in the budgetary sphere, is unattainable without effective control.

Founded on this principle, the supreme organs of the state operate with autonomy. However, there must still be a preeminent institution among them; otherwise, a contest for leadership may arise, attenuating each power branch and, consequently, the overall state authority. The architects of the doctrine of the division of powers believed that the leading role should belong to legislative bodies. This is justified since the foundation of state authority lies in the law. Adherence to and the rigorous enforcement of the law are fundamental guarantees for a stable socio-political life in the state.

The executive power vested by the President and the government should also be subjected to the law. Its principal objective is the execution and implementation of laws. The judicial system (judicial bodies) is designed to be autonomous. Its specific role is linked to its arbitration function in legal disputes. The principle of the division of powers is implemented to varying degrees in all democratic countries, and its effectiveness is determined by various factors.

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Анотація

Мамедов Турал Халід. Методологічні основи концепції управління регіоном. – Стаття.

Статтю присвячено теоретико-методологічному дослідженню принципу розподілу влади, який вважається загальноприйнятим аспектом політичних систем сучасних демократичних держав у всьому світі. Автор систематично досліджує походження та конфігураційні ознаки принципу розподілу влади в анналах публічної політичної думки. Загальноприйнято вважати, що родоначальниками концепції поділу влади є Дж. Локк і Монтеस्क'є. Тим не менш, наукове дослідження показує, що ця концептуальна основа ґрунтується на політичних філософіях античності, зокрема, на основі роздумів Аристотеля та правових доктрин римської школи. Вивчаючи погляди Локка та Монтеस्क'є на поділ влади шляхом прискіпливого аналізу першоджерел, стає очевидним, що сучасне застосування принципу поділу влади в демократичних країнах у всьому світі переважно бере свою основу від Монтеस्क'є. Одночасно дослідження поділу влади проводяться в рамках класичної німецької юридичної та філософської школи з особливим наголосом на кантіанських поглядах разом із мислителями Просвітництва в Європі. Остаточне встановлено, що логічне завершення розподілу влади помітне в американській публічній політичній думці. Крім того, у статті зазначено, що в середовищі американської публічної політичної думки концепція поділу влади перетворюється на «систему стримувань і противаг», стимулюючи взаємозв'язки між гілками влади. В академічному дискурсі помітно відсутній єдиний підхід до природи поняття розподілу влади. У наукових трактатах, що зосереджуються на питаннях державного управління, повсюдно використовуються такі лексикони, як «розподіл влади», «стримування та противаги» та «розподіл влади», породжуючи безліч точок зору щодо розуміння цього основоположного принципу. Визнання принципу розподілу повноважень через функціональну призму вимагає, щоб кожна гілка влади посідала належне їй місце в рамках всебічної організації держави, узгоджуючи її з характером її функцій і цілей. Навпаки, третя перспектива заперечує принцип розподілу повноважень і ґрунтується на прийнятті «функціонального розподілу» між державними суб'єктами, що ґрунтується на принципі єдності державного управління.

Ключові слова: поділ влади, поняття, системи стримувань і противаг, державне управління, державне управління.

Summary

Mammadov Tural Khalid. Methodological foundations of the concept of governance region. – Article.

The article is devoted to the theoretical and methodological scrutiny of the principle of the division of governmental powers, considered a conventional facet within the political systems of contemporary democratic nations globally. The author systematically examines the origination and configurational attributes of the principle of the division of powers within the

annals of public political thought. Conventional acceptance posits that the progenitors of the concept of the division of powers are J. Locke and Montesquieu. Nevertheless, scholarly inquiry reveals that this conceptual framework draws upon its foundations from the political philosophies of antiquity, particularly emanating from the deliberations of Aristotle and the legal doctrines of the Roman school. By scrutinizing the perspectives of Locke and Montesquieu on the division of powers through a meticulous analysis of primary sources, it becomes evident that the contemporary application of the principle of the division of powers in democratic countries worldwide predominantly derives its underpinnings from Montesquieu. Concurrently, explorations into the separation of powers are conducted within the Classical German legal and philosophical school, with a particular emphasis on Kantian viewpoints, alongside Enlightenment thinkers in Europe. It is conclusively determined that the logical culmination of the division of powers is discernible within American public political thought. Furthermore, the article identifies that in the milieu of American public

political thought, the concept of the division of powers transmutes into a "system of checks and balances," instigating interrelations among the branches of government. In academic discourse, a singular approach to the nature of the concept of the division of powers is notably absent. In scholarly treatises focusing on matters of state governance, lexicons such as "division of powers," "checks and balances," and "separation of powers" are ubiquitously employed, engendering a myriad of perspectives concerning the comprehension of this foundational principle. The acknowledgment of the principle of the division of powers through a functional lens necessitates each governmental branch to assume its rightful position within the comprehensive framework of state organization, aligning with the nature of its functions and objectives. Conversely, the third perspective rebuffs the principle of the division of powers and hinges on the acceptance of a "functional partition" among state entities, grounded in the unity principle of state governance.

Key words: separation of powers, concept, checks and balances, state governance, state administration.