

Конституция как отражение культуры: универсальное и/или национальное начала

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In the modern world, the Constitution serves as the foundation on which the entire state-legal building is built. As you know, the Constitution fulfills the role of the Basic Law, it has the highest legal force, supremacy and direct effect. In the constitutional theory and practice of modern states, Constitutions are divided into rigid, flexible, written and unwritten, adopted by referendum, parliament and other means. But the Constitution is not just a Law, with its inherent features and legal properties, but also a Law that reflects the national culture.

Can we agree that "Oh, East is East, and West is West, and never the twain shall meet,..." as R. Kipling wrote in a famous work? [1] The West and the East are an eternal confrontation, but is it surmountable?

The constitutions of European states adopted the ideas of the Renaissance and the values of bourgeois revolutions. The Constitutions enshrine such ideas and values as humanism, the value of man, freedom of thought and speech, religion and a number of others. For example, in the French Constitution of 1958 [2], the "La Marseillaise" as the national anthem, "Liberty, Equality and Fraternity" as the motto of the Republic were recognised. It is enough to recall the history of France, Germany, Italy, Spain to understand the value of the ideas of freedom, justice, equality, human and civil rights and freedoms and the importance of enshrining them in the Basic Law. The Constitution enshrines not just a list of rights and freedoms, legal values, principles of organization of state power, but the result of a centuries-old struggle for their recognition and approval.

History, features of national culture were embodied in the Constitutions of the countries of the East. Thus, the Preamble to the Constitution of the Republic of Iran [3] proclaims that it was adopted "on the basis of Islamic institutions", and articles 1, 2 proclaim and enshrine religious norms, which is characteristic of the Islamic State. The Constitution of Iran is imbued with religious norms, which reflects its national culture, spiritual sphere. The Constitution of Mongolia [4] is a reflection of national and cultural characteristics. The national origin is present in the names of state bodies, descriptions of state symbols, as well as in the establishment of the moment of entry into force of the Constitution. Thus, according to article 70 of the Mongolian Constitution, it came into force "at the hour of the blessed golden Horse of the ninth day of young bonds in the first spring month of the Black Tiger," or 12 noon on February 12, 1992. Preserving the national basis, the constitutions of Iran, Mongolia and other states of the Asian region recognize the values that have become the patrimony of the world: human and civil rights and freedoms, the ideas of freedom, equality, justice, separation of powers, and a number of others.

In response to the lines from R. Kipling's "The Ballad of East and West": "Oh, East is East, and West is West, and never the twain shall meet,..." we would argue that the line of contact, at present, is constitutional ideas and values, without which the life of modern society is impossible.

The study showed that the national and cultural principles in the Constitution are combined with global values, but the proportion of this ratio may be different. The Constitution contains both universal features, which can easily be found in its structure, legal features, and basic values, and specific features, which are due to the history, traditions, and culture of the people.

References

- 1) References Constitutions of European States: in 3 t. T. 3 / Edited by the Director of the Institute of Legislation and Comparative Law under the Government of the Russian Federation L.A. Okunkova. - Moscow: NORMA Publishers, 2001. Kipling R. Selected poems from all books V. Betaki. -B.m.:Salamandra P.V.V., 2011. constitutions.ru
The Constitution of Iran - Russian Legal Portal: Pashkov Library worldconstitutions.ru
Constitution of Mongolia - Constitutions of States (Countries) of the World