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Tolkachova I., Associate Professor, Ph.D. in Law,
Grabovskiy G., student,
National Aviation University, Kyiv, Ukraine

THEOCRATIC MONARCHY OF THE VATICAN AND ELECTIVE MONARCHY OF MALAYSIA: COMPARATIVE AND LEGAL ANALYSIS

Monarchy is a way of expressing the essence of the state of class and caste society, reflected in the political and legal system of supreme state power, that is fully concentrated in the hands of the head of state, who, by virtue of his special status (primacy and life of power, irresponsibility and heredity), individually rules the state [1, p. 59].

In our theses, we would like to compare two completely different types of monarchy – the theocratic monarchy of the Vatican and the elective monarchy of Malaysia.

Today, in most countries of the world, such a principle of constitutional order, as the principle of a secular state, is established. According to this principle, church is separate from state, and authorities do not interfere in activities of church. However, there are some exceptions in the modern world. States, which are absolutely opposite of secular states, are called theocratic. In history, there were cases where all state power was in the hands of the clergy, churches, and all politics was based on the corresponding faith. In the modern world, such a rare exception is the Vatican theocratic monarchy.

It should be clarified what is a theocratic state. Thus, the “theocracy” is the form of state, where the political and spiritual power is concentrated in the hands of one person – the head of the clergy, recognized as “earthly deity”, “high priest”, etc. A theocratic state is characterized by the deification of the figure of the ruler, that is considered that the supreme deity transfers the powers of state governance to the absolute ruler [2, p. 59].

An important feature of the theocracy of the Vatican is the subordination of law to religion. This means that the basic rules are religious, which are in the Holy Scripture. In essence, in this type of state, religion is identified with law. And in Malaysia, there is a Constitution and the rule of law.

Malaysia is a federation, consisting of nine sultanates (principalities) and four republics. According to the form of government, Malaysia is a monarchy, but rather special. The title of the head of state is almost nominal, since the real political power belongs to the prime minister and parliament [3, p. 60].

The head of the Vatican is the Pope. He holds the titles of the Supreme Head of the Church (the pontiff) and the monarch of the Vatican state. The Pope is elected for life, after death or renunciation of his predecessor. He is elected by the College of Cardinals at special meetings called conclaves. A

conclave is a meeting on which each cardinal can be elected Pope.

Malaysia is a monarchy with an elected head of state. The supreme ruler, as well as his deputy, are elected by the council of governors (hereditary sultans) of nine states of Malaysia from among its members for a term of five years.

However, the election itself is a formal (ceremonial) procedure. Nine sultans in a predetermined order take the post of the federal monarch in such a way that for a cycle (every 45 years) the head of each of the nine sultanates was in turn every five years the federal monarch [2, p. 63].

Legislative, executive and judicial power belongs fully to the pope. His competence includes the representation of the Vatican in international relations, the conclusion, ratification and denunciation of international treaties and concordats, the reception and appointment of diplomatic representatives [4, p. 135-136].

The Supreme ruler of Malaysia performs the representative functions of the head of state “on the advice of the parliament and government”. He also should provide a special position for the Malay and other indigenous people (“bumiputra”) and “legitimate interests” of other communities. The first ones are provided positions in the civil service, grants, scholarships and quotas in educational establishments; preferential permits and licenses for entrepreneurial activities are given, etc. The monarch is considered supreme commander in chief of the armed forces of the country, appoints the prime minister [2, p. 64].

So, summing up, we can say that both of these states are almost unique in their form of government, and despite the fact that in the modern world there is a tendency to replace the monarchy with the republic, these countries remain a rare exception among the states of our time.

Literature

1. Волинка К. Г. Теорія держави і права: навч. посіб. / К. Г. Волинка – К.: МАУП, 2003. – 240 с.

2. Шумов С. История Ватикана. Власть и Римская курия / С. Шумов, А. Андреев. – М.: Монолит-Евролинц-Традиция, 2002. – 209 с.

3. Городилов А. А. Конституционное право зарубежных стран: учебник / А.А. Городилов, А.В. Куликов. – Москва; Берлин: Директ-Медиа, 2018. – 552 с.

4. Конституционное право зарубежных стран. Общая часть: учебник / В.Е. Сафонов, Е.В. Миряшева. – М.: Издательство Юрайт, 2014. – 351 с.