JUSTICE AS A FUNCTION OF A DEMOCRATIC STATE

INTRODUCTION

Since the emergence of human civilization on the planet Earth, there have always been conflicts between people: family, intertribal, land, etc... However, conflicts were resolved either by force or by using customs in the period when the law had not yet been formed. As E.V. Vaskovsky (1914, p. 2) notes: “Every right began with arbitrariness and revenge, this wild kind of justice”. With the advent of written law, it became possible to resolve emerging conflicts by applying the rules of law, but for this, it was necessary to create a special body with the authority to resolve legal conflicts on behalf of the State.

In a civilized society, the legal conflict that has arisen, as well as the state of "uncertainty of substantive law" or "uncertainty of legal fact", should be resolved by issuing a judicial act as a result of legal proceedings. By making decisions, the court, being a State body on behalf of the State, resolves the conflict by applying the rule of law. However, the following relevant questions arise here. Does the court always carry out justice when resolving a conflict? Since there were courts in various states: despotic, authoritarian, fascist, etc., does this indicate the implementation of justice in such states? Is justice always a priori inherent in the judiciary, or does the judiciary carry out legal proceedings, but not always justice?

METHODS

In the course of the research, general scientific methods of cognition were used, including the principle of objectivity and consistency. Private scientific methods were used along with general scientific methods of cognition: theoretical analysis, comparative law, technical and legal analysis, concretization, interpretation, and the historical method of cognition. The methodological basis of the study was the method of the theory of knowledge.

RESULTS

There are various scientific approaches to the definition of justice in legal doctrine. For example, in common-law countries, justice is understood as the maintenance or implementation of justice through an impartial consideration of conflicting claims, as well as the balanced and fair application of laws (MOROZOA, 2014). Justice is understood as the fulfillment of the divine will in religious legal systems. In ancient times, justice was depicted as the goddess of Justice with three symbols: the sword, symbolizing the coercive power of the court; the scales on which human destinies are weighed and blindfolded as a symbol of impartial judgment. The basic postulates of justice were developed by Roman lawyers in ancient times. As the Roman jurists argued, justice should be:

- free, for there is nothing more unjust than venal justice;
- fast, because delay is a kind of refusal;
- complete, i.e. it should not stop halfway.
In the eighteenth century, the French philosopher Alexis de Tocqueville rightly pointed out that justice is designed to replace the idea of violence with the idea of law. The Russian professor T.M. Yablochkov wrote in 1910:

> The task of the court is to resolve the issue of law, of course, its decision does not remain a dead letter, it can be enforced, but the commission of actions to exercise the right is a consequence, but not the content of the court’s activities. Not a sword, but the scales of justice are given to the judge (YABLOCHKOV, 2010, p. 36).

As we can see, defining justice, the classics of legal doctrine saw its essence not in simple legal proceedings, but the rule of law when deciding. Judges shall consider and resolve cases in conditions that exclude outside influence on them. Any interference in the activities of judges in the administration of justice is prohibited and entails liability established by law. On the one hand, the independence of judges is ensured by several constitutional guarantees (Articles 120–124 of the Constitution of the Russian Federation), which are specified in the norms of the legislation on the judicial system of the Russian Federation. The court should be equidistant from the prosecution and defense bodies, from contacts with each of them. However, only the bar is removed from the judiciary. Indeed, it is almost impossible for lawyers to get an audience with a judge, while the staff of the prosecutor’s office without any obstacles enter the judges’ office, including during breaks in court sessions. Contacts between judges and prosecutors in the absence of lawyers are unacceptable and contrary to the principle of independence. For example, in the United States, it is strictly forbidden for judges to communicate with the prosecution in the absence of the defense.

Judgments about the actual circumstances of the case, the reliability of the evidence, the rights and obligations of the parties should be the beliefs of the judges themselves and not judgments imposed on them by other persons from outside. Legal proceedings are a necessary attribute of State sovereignty. In this connection, all decisions in Russia are made by the courts in the name of the Russian Federation, i.e. no other institution, including the state (except for the court), has the authority to exercise judiciary and make a decision in the name of the Russian Federation. Various state and non-state bodies can resolve a legal conflict, but only a court can make decisions in the name of the State. The question of whether such proceedings will be just in the doctrine remains open.

Each State independently establishes a system of judiciary. Thus, in Russia, in addition to the system of federal courts and justices of the peace, following the provisions of the Federal Law “On Arbitration (Arbitration Proceedings)”, there are arbitration courts and arbitration institutions that also resolve legal conflicts (resolve disputes) and make decisions called arbitral awards. However, despite the similarity of the terminological concept of “award”, arbitration courts and arbitration institutions do not conduct legal proceedings but administer the arbitration, which directly follows from the above-mentioned law. Arbitration is defined by the legislator not as a judicial institution, but as the process of resolving a dispute by an arbitration court (arbitration institution) with the issuance of an arbitration award. Thus, arbitration and arbitration proceedings are currently synonymous legal categories that should be distinguished from arbitration proceedings that take place in an arbitration court.

Based on the provisions of the Constitution of the Russian Federation, justice functions in Russia independently of the legislative and executive authorities. Article 118 of the Russian Constitution establishes the provision that justice in the Russian Federation shall be administered by courts alone. The judiciary shall be exercised through criminal, civil, administrative, arbitration, and constitutional legal proceedings. Thus, according to the Constitution, any judicial act adopted by a Russian court, even if it suppresses the rights and freedoms of citizens guaranteed by the Constitution, violates the basic principles of the Constitution, should be considered justice.

Also, the text of the Russian Constitution does not contain anything about how the super-presidential power in Russia is built into the system of separation of powers. There is nothing about the independence of the judiciary from the presidential power in Russia in the
Constitution. Moreover, the amendments made to the Russian Constitution in 2020 put the judiciary under the full control of the presidential power.

The European Commission for Democracy through Law (the Venice Commission) in March 2021 issued a conclusion in which it criticized both the amendments to the Constitution and the procedure for their adoption. The Venice Commission drew attention to the disproportionate strengthening of the power of the President of the Russian Federation, the violation of the mechanism of checks and balances in the power structure, and the restriction of the independence of the judiciary. As a result, the Venice Commission concluded that the principle of separation of powers in the Russian Federation was violated. In this connection, it seems to us that the judiciary is not an independent power in Russia and, therefore, it does not have the function of justice. In the Russian doctrine there are several approaches to the essence of justice:

1. Justice is a form of state activity, which consists of the consideration and resolution by the court of cases referred to its competence, carried out following the procedure established by law.

2. Justice is a function of the state.

3. Justice is a special type of legal activity.

Thereafter, no concept reflects the direction of justice and the independence of the judiciary from other authorities, and this is the most important thing in understanding the essence of justice. A.V. Tsikhotskiy (1997, p. 76), distinguishing between justice and legal proceedings, indicated that the subject of justice is only the court, while there are several subjects in the proceedings: the court and other participants in the process.

Justice must be distinguished from legal proceedings. As A.A. Mokhov (2018, p. 34) rightly notes: "In doctrine, there is often a temptation to combine such definitions as "justice" and "legal proceedings", because this refers to the same subject - the court". On this issue, the Constitutional Court of the Russian Federation in Resolution of January 15, 2001, on the case on checking the provisions of Part 2 of Article 1070 of the Civil Code noted that, according to its constitutional and legal meaning, not all legal proceedings, but only that part of it, in which judicial acts have adopted that resolve the dispute on the merits. Thus, all other issues that are resolved in a judicial institution daily by its employees do not relate to justice (for example, the work of the staff of the office for civil cases cannot be recognized as justice). In other words, justice is a narrower concept than legal proceedings and they should be considered as a ratio of part and whole.

The Constitutional Court of the Russian Federation does not pay attention to the basic essence of justice (to resolve court cases based on fairness and objectivity) by an independent court. It seems to us that without meeting these criteria, there can be no justice, and the activities of the court should be considered only as legal proceedings. It is also necessary to distinguish between such categories as justice and the judiciary. They are heterogeneous legal concepts and relate to each other as a form and content. N.I. Bogacheva rightly notes:

Justice is an important manifestation of the judiciary, but not the only one. The judiciary, in addition to justice, exercises constitutional control, controls the legality and validity of decisions and actions of state and local government bodies, ensures the execution of sentences and other judicial acts, provides explanations on judicial practice and participates in the formation of the judicial corps (SHAGIEVA et al., 2015, p. 109-110).

Judiciary is a special kind of state power delegated by the state to specially authorized bodies – courts, implemented by specific officials – judges (federal, magistrates). Thus, the bearers of the judiciary in Russia are only federal and magistrate judges. Justice is considered in the doctrine by some researchers as a function of the state, while the judiciary itself has its functions (SVIRIN, 2021). Thus, the following functions of the judiciary should be distinguished:

a) resolution of the dispute on the merits;
b) judicial control over the legality and validity of the issued judicial acts;

c) interpretation of legal norms;
d) certification of facts of legal significance (for example, declared dead by the court);
e) restriction of constitutional and other legal capacities of citizens (for example, recognition of a citizen as incapacitated);
f) judicial supervision of court decisions;
g) assistance and control of arbitration courts;
h) enforcement of foreign judgments.

However, there are other judgments in the doctrine. Thus N.A. Kolokolov (2006) singles out such functions of the judiciary as law enforcement, law application, political, ideological, diagnostic, preventive, and other functions. According to V.V. Skitovich, the functions of the judiciary include not only justice, but also jurisdictional control (constitutional, administrative), the formation of the judiciary, and the management of judicial practice. It seems to us that this point of view is debatable since the judiciary is implemented directly in the process (including when performing judicial control), therefore, the judiciary does not have the function of forming the judicial corps. The number of functions of the judiciary may vary depending on different economic and political conditions, factors in which the judiciary itself functions, but the protective function of justice is indisputable.

The order of formation of the judiciary in the USSR differs significantly from the order of its formation at present. The development of the judicial system in Russia has come a long and difficult way. The modern court system began to take shape in 1917 after the October Revolution. Based on the Decree on Court No. 1 of December 7, 1917, the old judicial institutions ceased to operate: the Government Senate, district courts, judicial chambers, commercial courts, and military courts. Instead, local courts and revolutionary tribunals were created. The cassation instance for decisions of local courts was the district congresses of judges. As indicated by A.I. Bastrykin (2019, p. 5): "Volost courts were created in some volosts on the initiative of the NKVD". Thus, courts were created on the initiative of a repressive body, which completely excluded their independence and justice of decisions.

In January 1918, the Council of People’s Commissars adopted the Decree on the Revolutionary Tribunal, which became a specialized judicial institution. In February 1918, the Central Executive Committee of the All-Russian Congress of Soviets adopted a new Decree on court No. 2, according to which district courts were created in counties and cities. The members of the district courts were elected by the county and city councils of workers’, soldiers’, and peasants’ deputies. The district courts became the court of cassation concerning the local courts. On November 30, 1918, the Regulations on the People’s Court were issued, which again revised the entire judicial system of the RSFSR, in particular, introduced a new procedure for the election and recall of people’s judges.

The regulations on the judicial system of the RSFSR approved by the Central Executive Committee on October 31, 1922, provided for the following judicial system: the People’s Court, the Provincial Court, the Supreme Court of the RSFSR. At the same time, the revolutionary tribunals and the Supreme Tribunal were abolished. However, the judicial system included people’s investigators who worked in the investigative stations, the provincial courts, and the Supreme Court of the RSFSR. As we can see from the above examples, the judicial system in the USSR from the very beginning of its creation and subsequent development had repressive beginnings and was aimed at suppressing and restricting the rights of citizens, and not at the administration of justice. It is no coincidence that A.Ya. Vyshinskii (1940) wrote that the Soviet court is the governing body of the Soviet country as a country of the proletarian dictatorship. Thus, despite the election of judges in the USSR, the court was considered as a body of dictatorship, not justice.
In 1928, to relieve the state courts of a large number of cases, friendly courts were established, the decisions of which were binding. In 1930, rural public courts were additionally created, which also consider labor disputes. As V. M. Syrykh (2007) points out, about 50,000 rural courts had been created by 1932. However, such courts did not belong to the judiciary and did not administer justice. The Constitution of the USSR of 1936 established new principles of the organization and activity of the judiciary. In particular, such principles as collegiality, independence, and the election of judges were fixed. It would seem that the Soviet state has taken a course to increase the independence of the judiciary and its administration of justice. However, as noted by A.I. Bastykin (2019, p. 19): “In conditions of mass political repression, it was impossible to widely apply these principles”. As we can see, even after the adoption of the new Constitution in the Soviet state, justice was a declarative function of the state.

In the Fundamentals of the Legislation on the Judicial System of the USSR of 1958, two levels of judicial bodies were established: the courts of the Union of the USSR and the courts of the Union republics. The courts of the USSR included: the Supreme Court of the USSR and military tribunals. The system of courts of the Union republics included: the Supreme Courts of the republics, regional and land courts, and district people’s courts. Such a system of courts had existed almost until the collapse of the Soviet Union. However, small changes still occurred. Thus, in 1988, the Constitution of the USSR was amended and the Committee of Constitutional Control was established, which officially did not belong to the judicial system, but in its powers was similar to the Constitutional Court.

On December 26, 1990, the Supreme Arbitration Court of the USSR was established, the main task of which was to resolve economic disputes. Also, arbitration courts were created in 1992 instead of arbitration courts, which were not judicial institutions. The creation of an independent system of arbitration courts in Russia in 1992 certainly expanded the function of justice in civil cases, but the courts were not independent institutions from the presidential power. Currently, article 3 of the Law on the Judicial System establishes the principle of the unity of the judicial system. Consequently, arbitration courts and courts of general jurisdiction form a single judicial system in the Russian Federation. They have completely different competencies, so the courts of general jurisdiction and arbitration courts can be considered as two judicial subsystems.

Arbitration courts carry out legal proceedings in economic disputes and other cases related to entrepreneurial activity (Article 127 of the Constitution). This constitutional provision is consistent with Article 4 of the Law “On Arbitration Courts in the Russian Federation”, which stipulates that arbitration courts administer justice by resolving economic disputes and considering other cases referred to their competence by the Constitution of the Russian Federation, the Federal Law, and the Arbitration Procedure Code. Thus, the legislator gives arbitration courts the function of justice, but as statistics on disputes between the state and business entities show, 90 percent of cases are decided in favor of the state. It seems that in the arbitration court system, justice as a function is only legally fixed on paper, but in fact, there is no justice. Currently, based on the law on the judicial system, in the Russian Federation, there are federal courts and courts of the subjects of the Russian Federation. Depending on the subject of formation, the federal courts include:

1. The Constitutional Court of the Russian Federation.
2. The Supreme Court of the Russian Federation.
3. Courts of general jurisdiction: nine courts of cassation; five courts of appeal; supreme courts of republics, regional and territory courts, courts of federal cities, courts of autonomous provinces and autonomous regions; district courts.
4. Arbitration courts: arbitration courts of districts, courts of appeal, arbitration courts of the subjects of the Russian Federation.
5. The Intellectual Property Rights Court is the only specialized court in Russia.
6. Military courts.
The courts of the subjects of the Russian Federation should include:

1. Constitutional (statutory) courts of the subjects of the Russian Federation.
2. Justices of the Peace.

Based on the analysis of Chapter 7 of the Constitution of the Russian Federation, it can be concluded that the judiciary in the Russian Federation is exercised by the Constitutional Court, as well as the system of general and arbitration courts operating in administrative-territorial entities. However, it should be borne in mind that the Constitutional Court, as the highest judicial authority for the protection of the constitutional order, does not administer justice in specific cases, which corresponds to the provisions of Article 125 of the Constitution of the Russian Federation. Order of Rosstandart No. 60-St of April 26, 2011, approved the All-Russian Classifier of state authorities and management. Based on this normative act, the following groups of federal-state authorities can be distinguished:

a. The President of the Russian Federation (including the Security Council of the Russian Federation and the Administration of the President of the Russian Federation);

b. The Federal Assembly of the Russian Federation (includes the Federation Council of the Russian Federation and the State Duma of the Russian Federation);

c. The executive power of the Russian Federation (the Government of the Russian Federation, federal ministries, state committees of the Russian Federation, federal committees of Russia, federal services of Russia, federal agencies of Russia, federal supervisors of Russia, other federal executive bodies, for example, the Office of the President of the Russian Federation);

d. The judiciary of the Russian Federation (the Constitutional Court of the Russian Federation, the Supreme Court of the Russian Federation, the Judicial Department under the Supreme Court of the Russian Federation, the system of federal courts of general jurisdiction, the system of federal arbitration courts, the system of the Prosecutor’s Office of the Russian Federation, the Investigative Committee of the Russian Federation).

As we see it in a democratic state, it is unacceptable at the legislative level to include the prosecutor’s office and the Investigative Committee in the judiciary, since the question involuntarily arises, who then administers justice? This provision of the law levels justice and actualizes the dictatorship of the repressive apparatus. Since 2000, the Government of the Russian Federation has developed and partially implemented three major targeted programs for the development of the judicial system in the Russian Federation:

1. Resolution of the Government of the Russian Federation of November 20, 2001, No. 805 “On the federal target program“ Development of the Judicial system of Russia “for 2002-2006“.
2. Resolution of the Government of the Russian Federation of September 21, 2006, No. 583 ”On the federal target program“ Development of the Judicial system of Russia “for 2007-2012”.
3. Resolution of the Government of the Russian Federation of December 27, 2012, No. 1406 ”On the federal target program“ Development of the Judicial system of Russia for 2013-2020”.

Some of the goals that were set for these programs were fulfilled, but one of the important goals to strengthen the independence of the judicial system was not achieved, moreover, the court completely came under the control of the presidential power. It seems to us that justice is a function of the State, implemented only by independent judges who are empowered in the prescribed manner, in a strictly established procedural form, and aimed at making a fair and objective decision.
The structure of the judicial system of a State is part of the procedural system and cannot be considered and studied in isolation from the process. If the court is not independent, then its procedural activity cannot be considered justice. In the countries of the Romano-Germanic type, the judicial system is quite extensive, since there are many specialized courts. Separate administrative courts have been established in almost all European countries, in addition to the courts of general jurisdiction. In Germany, there are 5 independent judicial systems: general courts, administrative, financial, labor, and social courts. Decisions of all specialized courts can be appealed to the Highest Federal Court in Germany. Thus, the system of financial courts has an internal hierarchy and includes two levels. The first level is the financial courts of the lands. The second level is the Federal Financial Court, located in Munich.

France has two independent judicial systems: the general and administrative courts. In the system of general courts, specialized courts (social courts, courts for cases related to the lease of agricultural land) have been established. There are family and labor courts in Portugal, in addition to the general courts.

Cuba has civil, administrative, and labor courts.

The court system in common law countries is also quite extensive. Thus, in the United States, the federal judicial system consists of three levels: the district courts, the Courts of Appeals, and the U.S. Supreme Court. The jurisdiction of the federal courts includes all cases that are not within the jurisdiction of the state courts. Also in the United States, the Claims Court and the Tax Court operate in the system of federal courts. The US Tax Court considers tax disputes as a court of the first instance, including in the framework of criminal legal proceedings. In some states, there are courts for minor claims, inheritance and custody courts, juvenile courts, bankruptcy courts, and family law courts. Each of the fifty states has its constitution, which also establishes the judicial system of the state, as a rule, these are courts of general jurisdiction, courts of appeal, the supreme court of the state, courts of limited jurisdiction, courts of special jurisdiction.

However, despite the extensive judicial system in all these countries, the courts are independent institutions that the State cannot exert pressure on and interfere with the administration of justice. The judicial system in the Russian Federation needs to be reformed. The following figures indicate the importance of reforming the judicial system. According to statistics, in Russia, there is a steady annual growth in a variety of civil cases, considered primarily by district courts, which determines the increase in the burden on judges. Unfortunately, this trend significantly increases the time for consideration of each case separately and negatively affects the quality of decisions taken. For comparison, in 2002, the district courts considered 2,587,050 civil cases, while the average workload of judges was 15.2 cases per month. In 2015, the courts have already considered 4,722,058 civil cases and the average workload for each judge was 24.8 cases per month. In 2016, the average workload of judges was already 28.5 cases per month. In 2019, the courts of general jurisdiction considered about 22 million civil cases, i.e. almost every seventh Russian citizen in 2019 applied to the court. Such an avalanche load on the court actualizes the issue not only of optimizing the judicial process, but also the creation of independent judicial institutions (SVIRIN et al., 2020).

The judicial form of protection of the right has priority over other forms and is expressed in the fact that:

a. When a dispute about a right can be considered by several bodies, including a court, the final decision is made by the court. For example, in labor disputes, after the decision of the labor disputes commission, the final decision on the application of the interested person is made by the court;

b. the court is indirectly obliged to check the legality of the decisions of the arbitration courts in the event of an application for the issuance of a writ of execution for the enforcement of the decision of the arbitration court;

c. any decision taken in an administrative order may be appealed in court;

d. the dispute shall be resolved in the course of legal proceedings by an independent court, which issues a judicial act of authority.
For the judiciary to carry out not only legal proceedings, but also justice, the principle of judicial independence shall function, and not be asserted declaratively. This principle has its history in Russia. Thus, before the judicial reform of 1864, the court could not proceed with a case without a precise and clear law, and if there was no such law, the court was obliged to apply to the governor, who reported this to the Governing Senate. The interpretation of the Senate was also applied in the presence of contradictions in the legislation. The decisions of the court on state matters were subject to confirmation but then again by the governor. Thus, the court did not have its independence and self-support. As a result of the judicial reform of 1864, the Russian court acquired the status of independence from the executive and legislative authorities.

Currently, this principle is proclaimed in the Constitution of the Russian Federation and means that in the administration of justice, judges are independent, subject only to the Constitution and federal law (Part 1 of Article 120 of the Constitution), i.e., the independence of judges is the most important principle of justice. However, this is only a declaration of what is desired. The judge is obliged to apply the law in the conference room and has no right to subordinate his/her decision to the discretion of state bodies. The independence of judges in Russia is nominally guaranteed by political, economic, and legal guarantees, but after the Constitutional amendments in 2020, the guarantees of the independence of judges have been significantly reduced.

Also, the constitutional amendments introduced in Russia in 2020 effectively abolished the principle of judicial independence. Granting the President of the Russian Federation the right to remove any judge from office, up to the judge of the Constitutional Court of the Russian Federation, puts all judges in the Russian Federation under the control of the presidential power, and this is a direct violation of the principle of judicial independence. Therefore, in Russia, there is now an unresolved problem of ensuring the independence of judges from the presidential power.

All the postulates of independence would have their value in democratic presidential elections, the succession of the president, and the possibility of the Russian President’s influence on judicial practice. In the conditions when the judicial corps is controlled by the President of the Russian Federation and his staff through the institutions of appointment and deprivation of judicial status, the principle of independence is fiction. For example, the instructions of the President of the Russian Federation to the Chairman of the Supreme Court of the Russian Federation on February 1, 2021, on improving judicial practice in cases of human rights violations should be considered as a legal impermissibility (facta jure impossibilia). Such an indication violates the principle of the independence of the judiciary in the Russian Federation.

CONCLUSION

The following conclusions were made as a result of the study:

1. Legal proceedings and justice are terms that have different substantive meanings. In any State, the court carries out legal proceedings, but justice can only be carried out by an independent court in a democratic State.

2. The theory of the separation of the three powers (legislative, executive, and judicial) has lost its significance in the modern world since in some states, such as Russia, the strong power is the presidential power, which influences the formation of the judiciary and its adoption of judicial decisions, so the judiciary is under the control of the presidential power.

3. Justice is a function of the State, implemented only by independent judges, who are empowered in the prescribed manner, in a strictly established procedural form, and aimed at making a fair and objective decision.

4. The structure of the judicial system of a State is part of the procedural system of the State, it cannot be considered in isolation from the judicial process. If the court is not independent, then its procedural activity cannot be considered justice.
5. In the USSR, during the dictatorship of the proletariat after 1917 and during the Stalinist repressions until the mid-50s of the last century, the court had been a part of the repressive apparatus, and not an organ of justice.

6. There is nothing about the independence of the judiciary from the presidential power in Russia in the Constitution of the Russian Federation. Moreover, the amendments made to the Russian Constitution in 2020 put the judiciary under the full control of the presidential power.

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Justice as a function of a democratic state

Resumo
Os autores analisam a história do desenvolvimento do sistema judiciário na Rússia e concluem que o tribunal é a priori inherente à função de processos judiciais, mas o tribunal nem sempre administra a justiça. O objetivo do estudo é determinar as características essenciais da justiça, analisar a relação entre justiça e processos judiciais, analisar o processo judicial na Rússia do ponto de vista histórico, para determinar a proporção do poder judiciário e presidencial na Rússia. Foi realizada uma análise histórica do desenvolvimento do judiciário na Rússia e sua independência em determinados segmentos históricos; a essência da justiça foi determinada; a independência de tais categorias jurídicas como processos judiciais e justiça foi comprovada, ficou provado que os processos judiciais são a priori inerentes ao sistema judiciário, enquanto a justiça foi realizada apenas em estados democráticos onde a independência do Judiciário de outras autoridades é assegurada.

Keywords: Justice. Legal proceedings. Judiciary. Independence of the judiciary. The principle of separation of powers.

Abstract
The authors analyze the history of the development of the judicial system in Russia and conclude that the court is a priori inherent in the function of legal proceedings, but the court does not always administer justice. The purpose of the study is to determine the essential features of justice, to analyze the relationship between justice and legal proceedings, to analyze the judicial process in Russia from a historical point of view, to determine the ratio of judicial and presidential power in Russia. A historical analysis of the development of the judiciary in Russia and its independence in certain historical segments was carried out; the essence of justice was determined; the independence of such legal categories as legal proceedings and justice was proved, it was proved that legal proceedings are a priori inherent in the judicial system, while justice was carried out only in democratic states where the independence of the judiciary from other authorities is ensured.

Keywords: Justice. Legal proceedings. Judiciary. Independence of the judiciary. The principle of separation of powers.

Resumen
Los autores analizan la historia del desarrollo del sistema judicial en Rusia y concluyen que el tribunal es a priori inherente a la función de los procedimientos legales, pero el tribunal no siempre administra justicia. El propósito del estudio es determinar las características esenciales de la justicia, analizar la relación entre la justicia y los procedimientos legales, analizar el proceso judicial en Rusia desde un punto de vista histórico, para determinar la proporción de poder judicial y presidencial en Rusia. Se llevó a cabo un análisis histórico del desarrollo del poder judicial en Rusia y su independencia en ciertos segmentos históricos; se determinó la esencia de la justicia; se demostró la independencia de categorías jurídicas como los procedimientos judiciales y la justicia, se demostró que los procedimientos judiciales son a priori inherentes al sistema judicial, mientras que la justicia sólo se lleva a cabo en estados democráticos donde se garantiza la independencia del poder judicial de otras autoridades.

Palavras-chave: Justiça. Procedimentos legais. Judiciário. Independência do Judiciário. O princípio da separação de poderes.

Keywords: Justice. Legal proceedings. Judiciary. Independence of the judiciary. The principle of separation of powers.

Palabras-clave: Justicia. Procedimientos judiciales. Judicatura. Independencia del poder judicial. El principio de separación de poderes.