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CONSTITUTIONALISM AND RULE OF LAW IN ECONOMIC GOVERNANCE

This abstract presents an analysis of the pivotal role played by constitutionalism and the Rule of Law in economic governance, emphasizing their significance, challenges, and strategies for fortification. Constitutionalism and the Rule of Law stand as foundational pillars, ensuring stability, fairness, and conducive environments for economic activities. This study reviews the threats to these principles, including political interference, weak institutions, and regulatory capture, which undermine their effectiveness. Proposed strategies for strengthening these principles encompass institutional reforms, civic engagement, judicial enhancements, and ethical leadership promotion. The outlook emphasizes the criticality of upholding these principles for sustainable economic development, reduced disparities, and equitable resource allocation. The conclusion advocates for sustained efforts to fortify constitutionalism and the Rule of Law to build resilient and inclusive economic systems, fostering societal progress and global stability.

In general, the essence of the topic of constitutional economics lies in the development of rational rules for the interaction between the government and the business community and is expressed in the concretization and protection of the principles of the foundations of the constitutional system, ensuring the stability of existing economic conditions and legal security. To a greater extent, the system of constitutional economy can be traced through determining the content of the function of the state in the field under study.

Key words: constitutionalism, rule of law, Economic Governance, Sustainable Development, Challenges, Strategies, Institutional Reforms.

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Экономикалық басқарудағы конституционализм және заңның үстемдігі

Бұл жұмыста экономикалық басқарудағы конституционализм мен заңның үстемдігі атқаратын іргелі рөлге талдау жасайды, олардың маңыздылығын, проблемалары мен нығайту стратегияларын көрсетеді. Конституционализм мен заңның үстемдігі тұрақтылыққа, теңдікке және экономикалық қызмет үшін қолайлы жағдайларға кепілдік беретін іргелі негіздер болып табылады. Бұл зерттеу осы принциптерге, соның ішінде саяси араласуға, әлсіз институттарға және олардың тиімділігіне нұқсан келтіретін реттеушілердің бақылауына қауіп төндіреді. Осы принциптерді нығайтудың ұсынылған стратегияларына институционалдық реформалар, азаматтық қоғамды тарту, сот жүйесін жетілдіру және этикалық көшбасшылықты ынталандыру кіреді. Шолу тұрақты экономикалық даму, теңсіздікті азайту және ресурстарды әділ бөлу үшін осы принциптерді қолдаудың маңыздылығын көрсетеді. Қорытынды әлеуметтік прогресс пен жаһандық тұрақтылыққа ықпал ететін тұрақты және инклюзивті экономикалық жүйелерді құру үшін конституционализм мен заң үстемдігін нығайтуға бағытталған тұрақты күш-жігерді қолдайды.

Жалпы, конституциялық экономика тақырыбының мәні үкімет пен бизнес-қоғамдастықтың өзара іс-қимылының ұтымды ережелерін әзірлеуде жатыр және конституциялық жүйе негіздерінің принциптерін нақтылау мен қорғауда, тұрақтылықты қамтамасыз етуде көрініс табады. қолданыстағы экономикалық жағдайлар мен құқықтық қауіпсіздік. Конституциялық экономика жүйесін көбінесе зерттелетін саладағы мемлекет функциясының мазмұнын анықтау арқылы байқауға болады.

Түйін сөздер: Конституционализм, заңның үстемдігі, экономикалық басқару, тұрақты даму, сын-қатерлер, стратегиялар, институционалдық реформалар.

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Конституционализм и верховенство закона в экономическом управлении

В этом работе представлен анализ фундаментальной роли конституционализма и верховенства закона в экономическом управлении, подчеркивающий их значение, проблемы и стратегии укрепления. Конституционализм и верховенство закона представляют собой фундаментальные столпы, обеспечивающие стабильность, справедливость и благоприятные условия для экономической деятельности. В этом исследовании рассматриваются угрозы этим принципам, включая политическое вмешательство, слабые институты и регуляторный захват, которые подрывают их эффективность. Предлагаемые стратегии укрепления этих принципов включают институциональные реформы, гражданскую активность, судебные улучшения и продвижение этического лидерства. В прогнозе подчеркивается критичность поддержки этих принципов устойчивого экономического развития, сокращения неравенства и справедливого распределения ресурсов. В заключении содержатся устойчивые усилия по укреплению конституционализма и верховенства закона для создания устойчивых и инклюзивных экономических систем, способствующих социальному прогрессу и глобальной стабильности.

В целом суть темы конституционной экономики заключается в разработке рациональных правил взаимодействия государства и бизнес-сообщества и выражается в конкретизации и защите принципов основ конституционного строя, обеспечении стабильности существующих экономических условий и правовой безопасности. В большей степени систему конституционной экономики можно проследить через определение содержания функции государства в исследуемой сфере.

Ключевые слова: конституционализм, верховенство закона, экономическое управление, устойчивое развитие, вызовы, стратегии, институциональные реформы.

Introduction

Constitutionalism and the Rule of Law are fundamental principles that underpin the governance structures of modern societies, profoundly influencing economic systems and policies. Their significance lies in providing the necessary framework for fostering equitable and just economic governance. Within the intricate web of economic decision-making, these principles serve as guiding lights, ensuring accountability, protection of rights, and the establishment of transparent regulatory frameworks.

The convergence of constitutionalism and the Rule of Law in economic governance has garnered substantial attention from scholars and policymakers alike. This exploration aims to delve into the critical nexus between these principles and economic governance, shedding light on their theoretical foundations, practical applications, challenges, and potential solutions. Understanding this relationship is paramount for grasping how legal frameworks shape economic activities and contribute to societal well-being. Theoretical Foundations of Constitutionalism and the Rule of Law

Methodology and materials

The basis of any economy is property. The nature of the economic system depends on how the constitutional and legal regulation of property issues is carried out. In addition, such a regulatory order often significantly affects the political, social, demographic and other spheres of society. It can be said that the constitutional and economic regulation of property issues is one of the most important aspects of regulating society in general.

In the first constitution, the form of ownership was not clearly differentiated, and the equal status of all owners was assumed. The Constitution then began to distinguish several forms of ownership, which are generally accepted to be public (state) and private. Most constitutions of foreign countries recognize the principle of inviolability of private property, but this principle, as a rule, has a number of restrictions regarding the seizure of property for public needs with fair compensation to the owner.

The Constitution usually establishes the degree of involvement of the state in economic life. It should be noted that the state always implements economic policy, which means a certain level of

Public Regulation of property issues. In modern conditions, when directive economics is practically not applied, and forms of ownership in most countries are recognized as equal in status, new modern forms of state regulation of the economy are applied: tax, budget, monetary, and similar regulation. treatment is always carried out using the planned method. In addition, regulation in other areas of public life (social, political) significantly affects economic relations, making them more or less civilized, developed and stable.

Therefore, effective economic policy cannot be implemented only through proper economic regulation. On the contrary, developed economic relations are possible only with a comprehensive and balanced approach that ensures the stability of Public Relations. Thus, the inability of the state to properly organize the work of law enforcement agencies (political sphere) will compensate for the presence of developed economic norms due to the impunity of economic crimes, which will inevitably lead to a deterioration in quality economy.

Scholars such as Dicey (1885) have laid the theoretical groundwork for understanding the Rule of Law, emphasizing its essential components, including equality before the law, legal certainty, and the supremacy of regular law over arbitrary power. Similarly, constitutionalism, as expounded by theorists like Paine (1776) and Madison (1788), emphasizes the need for a written constitution that limits government powers, protects individual rights, and establishes a system of checks and balances.

Empirical studies by Acemoglu and Johnson (2005) have shown that countries with strong constitutional frameworks and adherence to the Rule of Law tend to exhibit greater economic development and attract more foreign investment. The presence of robust legal institutions and transparent governance structures creates an environment conducive to economic growth, innovation, and stability (North, 1990).

However, challenges persist in implementing these principles in economic governance. Scholars like Chaudhry (2014) highlight the threats posed by political interference, institutional weaknesses, and regulatory capture in undermining the Rule of Law and constitutional principles within economic decision-making processes. Overcoming these challenges requires multifaceted approaches, including institutional reforms and fostering a culture of accountability and transparency (Kaufmann, 2011).

Constitutionalism and the Rule of Law form the bedrock of stable and progressive economic gov-

ernance. Their significance transcends mere legal frameworks; they serve as guiding principles shaping economic policies, regulatory environments, and the overall economic landscape of nations.

Constitutionalism provides a structured foundation for economic decision-making by delineating the powers and functions of governmental bodies. This delineation fosters stability, ensuring that economic policies are not subject to arbitrary changes influenced by transient political motivations (North, 1990). The Rule of Law reinforces this stability by providing a framework wherein laws are consistently applied and enforced, offering predictability for businesses and investors (Acemoglu, 2005).

A robust constitutional framework protects property rights and upholds the sanctity of contracts, essential components for economic growth and development. Madison (1788) emphasized the importance of property rights as a cornerstone of a stable and prosperous society. Similarly, the Rule of Law ensures that contracts are honored and enforced impartially, fostering trust and confidence in economic transactions (Paine, 1776).

Constitutionalism and the Rule of Law contribute significantly to creating an enabling business environment. Transparent and accountable institutions, as advocated by Kaufmann, Kraay, and Mastruzzi (2011), reduce corruption and regulatory arbitrariness, attracting both domestic and foreign investments. Such environments nurture innovation, entrepreneurship, and economic efficiency (Chaudhry, 2014).

A strong constitutional framework, coupled with the Rule of Law, mitigates economic disparities by providing mechanisms to safeguard the interests of all stakeholders. This includes protecting vulnerable groups, ensuring fair competition, and preventing monopolistic practices that could hinder economic inclusivity (North, 1990).

Discussion

Understanding Constitutionalism in the Context of Economic Governance

Constitutionalism, within the context of economic governance, delineates the framework by which economic decisions are made, guided by constitutional principles, laws, and institutional arrangements. It encapsulates the integration of legal structures and governance mechanisms aimed at ensuring economic activities operate within defined boundaries and with regard to established norms (Rosenfeld & Sajo, 2015).

In economic governance, constitutionalism encompasses the establishment of legal boundaries within which economic policies are formulated, implemented, and adjudicated. This framework promotes the protection of property rights, contractual agreements, and fair competition, ensuring that economic actors operate within a structured and regulated environment (Tushnet, 2010).

Moreover, constitutionalism fosters the creation of institutions that oversee economic activities, offering a system of checks and balances to prevent excessive concentration of economic power and arbitrary decision-making. It promotes transparency, accountability, and predictability in economic governance, facilitating long-term economic stability and growth.

Role of Constitutional Principles in Shaping Economic Policies

Constitutional principles significantly shape the formulation and execution of economic policies within a nation. The separation of powers, advocated by Montesquieu (1748), remains a pivotal constitutional principle that influences economic governance. It ensures that economic decisions are subject to scrutiny and balance among the legislative, executive, and judicial branches, preventing the dominance of any one entity in economic decision-making (Ackerman, 1991).

Furthermore, the protection of property rights forms a crucial aspect of constitutional principles influencing economic policies. The recognition and safeguarding of property rights, as articulated by Locke (1690), instill confidence among investors and entrepreneurs, fostering an environment conducive to economic growth. This protection encourages investment, innovation, and entrepreneurship, crucial elements for a thriving economy (Friedman, 1962).

Rule of Law in Economic Governance

The Rule of Law stands as a fundamental pillar in economic governance, embodying the principle that all individuals, including the government, are subject to and accountable under the law. In the context of economic affairs, this principle necessitates adherence to established legal frameworks, ensuring the predictability, transparency, and fairness of economic decision-making processes (Hayek, 1976).

Within economic governance, the Rule of Law signifies the existence of a legal structure that governs economic interactions, transactions,

and policies. It ensures that economic activities are conducted within the boundaries of established laws and regulations, providing a framework for the resolution of disputes and enforcement of contracts (Klitgaard, 1998).

The Rule of Law plays a pivotal role in fostering economic stability and sustainable growth within nations. Empirical evidence, such as the work of La Porta et al. (1999), highlights a strong correlation between the strength of the Rule of Law and economic development. Countries with robust legal frameworks often experience higher levels of economic growth due to the stability, predictability, and fairness these systems offer (North, 1991).

An environment governed by the Rule of Law instills confidence among economic actors, both domestic and foreign. It ensures that property rights are protected, contracts are enforceable, and legal disputes are resolved impartially. This certainty encourages investment, entrepreneurship, and innovation, fostering an ecosystem conducive to economic progress (Coase, 1960).

Legal Certainty and Property Rights Protection: One of the foundational aspects of the Rule of Law in economic governance is the assurance of legal certainty and protection of property rights. Secure property rights, as emphasized by Coase (1960), incentivize investment by assuring individuals and businesses that their assets are protected against arbitrary seizure or confiscation.

Contract Enforcement and Dispute Resolution: The Rule of Law ensures effective contract enforcement and reliable dispute resolution mechanisms. Nations with efficient legal systems, as researched by Djankov et al. (2003), experience lower transaction costs and heightened confidence in business dealings. This encourages both domestic and foreign investments by offering a stable and reliable legal environment for economic activities.

Various nations serve as prime examples of the interplay between the Rule of Law and economic development. Singapore, for instance, is renowned for its strong legal framework that prioritizes the Rule of Law. This commitment has facilitated a business-friendly environment, attracting substantial foreign investments and contributing significantly to the nation's economic growth and prosperity. Similarly, Denmark boasts robust legal institutions that have supported a transparent and predictable business environment, aiding its economic progress (World Bank, 2020).

The correlation between the Rule of Law and economic development is evident across different

nations, underlining the crucial role that legal frameworks play in fostering economic growth and prosperity.

Challenges and Obstacles

Threats to Constitutionalism in Economic Governance

Political Interference: Political interventions in economic governance can undermine the principles of constitutionalism. When political agendas supersede constitutional mandates, policies may be subject to short-term political interests rather than long-term societal welfare. This interference can erode the separation of powers and compromise the checks and balances essential for effective economic governance (Ginsburg & Huq, 2018). **Erosion of Institutional Integrity:** The erosion of institutional integrity poses a significant threat to constitutionalism. Institutions responsible for economic governance may become compromised due to external influences, compromising their ability to function independently and impartially. This erosion undermines public trust in these institutions, hindering their effectiveness in upholding constitutional principles (Bergman, 2007).

Regulatory Capture: Regulatory capture occurs when regulatory agencies intended to serve the public interest are influenced or controlled by the industries they oversee. This phenomenon distorts the regulatory framework, favoring specific vested interests over broader societal benefits. Regulatory capture undermines the fairness and impartiality necessary for constitutional economic governance (Stigler, 1971).

Impediments to Upholding the Rule of Law in Economic Decision-Making

Corruption and Cronyism: Rampant corruption and cronyism pose significant challenges to upholding the Rule of Law in economic governance. Corrupt practices, including bribery and favoritism, undermine the integrity of legal systems, creating an uneven playing field for economic actors. This corrodes trust in institutions and perpetuates economic inequalities (Rose-Ackerman, 1999).

Weak Legal Institutions: Weak legal institutions hinder the effective implementation of the Rule of Law. Inadequate legal frameworks, inefficient judicial systems, and inadequate law enforcement mechanisms impede the enforcement of contracts and protection of property rights. This weakness undermines the credibility and reliability of the legal system, deterring investments and hindering

economic growth (Kaufmann, Kraay, & Mastruzzi, 2011).

Lack of Transparency and Accountability: Transparency and accountability are essential pillars of the Rule of Law. When institutions lack transparency in decision-making processes and fail to be held accountable for their actions, it leads to a lack of trust in governance. Without transparency and accountability, the Rule of Law loses its effectiveness, affecting economic activities and investor confidence (World Bank, 2017).

Strategies and Solutions

Reforming Institutional Frameworks: To fortify constitutionalism, reforms within institutional structures are imperative. This involves bolstering the independence, transparency, and efficiency of institutions involved in economic governance. Creating safeguards against political interference and ensuring the separation of powers are crucial elements of this reform (Rosenfeld & Sajo, 2015).

Promoting Civic Engagement and Awareness: Educating and engaging citizens about constitutional principles and their role in economic governance is vital. Civic participation fosters a culture of accountability and empowers citizens to hold governments accountable for upholding constitutional values. Enhanced civic awareness acts as a check on governmental actions, reinforcing the importance of constitutional adherence in economic decision-making (Elster, 1998).

International Collaboration and Best Practices Sharing: Collaborative efforts among nations and the sharing of best practices strengthen constitutionalism in economic governance. Through international partnerships, countries can learn from successful models, adopt effective policies, and harmonize legal frameworks, thereby promoting a global environment conducive to constitutional economic governance (Slaughter, 2004).

Implementing Judicial Reforms: Judicial reforms aimed at improving the efficiency, transparency, and impartiality of the judicial system are essential. Strengthening the judiciary's capacity to handle economic cases, reducing case backlogs, and ensuring timely and fair resolution of disputes are critical aspects. This enhances the confidence in the legal system, promoting the Rule of Law (World Bank, 2020).

Strengthening Regulatory Frameworks: Enhancing regulatory frameworks involves creating clear, consistent, and enforceable regulations that align with constitutional principles. Regulatory

agencies must operate independently, free from undue influence, and ensure that regulations are conducive to economic growth while safeguarding public interests. Effective regulatory frameworks foster a fair and competitive economic environment (Levi-Faur, 2005).

Encouraging Ethical Leadership and Corporate Governance: Ethical leadership and robust corporate governance practices play a pivotal role in upholding the Rule of Law. Encouraging businesses to adhere to ethical standards, transparency, and accountability principles fosters trust among stakeholders. Implementing mechanisms for corporate accountability and responsible business conduct further bolsters the Rule of Law in economic affairs (Solomon & Hanson, 1985).

Conclusion

Constitutionalism and the Rule of Law serve as the bedrock of stable and prosperous economic governance. Their significance lies in fostering stability, ensuring fairness, and enabling sustainable economic growth. Upholding these principles in economic decision-making processes ensures predictability, protects rights, and creates an environment conducive to investments and innovation.

To sustain and fortify constitutionalism and the Rule of Law in economic governance, concerted efforts are necessary. Reforms within institutional frameworks, promotion of civic engagement, and collaborative international initiatives are crucial. Implementing judicial reforms, strengthening regulatory frameworks, and encouraging ethical leadership and corporate governance are essential steps toward ensuring these principles endure.

The future outlook of economic governance hinges on the adherence to constitutionalism and the Rule of Law. Upholding these principles fosters trust, encourages investments, and creates a level playing field for economic actors. It can lead to sustainable economic development, reduced disparities, and a more equitable distribution of resources, benefitting societies at large. However, sustained efforts are needed to counter threats and ensure the continual reinforcement of these fundamental principles.

In sustaining and fortifying constitutionalism and the Rule of Law, nations pave the way for resilient and inclusive economic systems, underpinning societal progress and global economic stability.

By prioritizing these principles, governments, institutions, and stakeholders can collectively build a future where economic governance is characterized by fairness, transparency, and a steadfast commitment to constitutional values.

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