

The tripartition of powers

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A few years ago - while Pia Kjaersgaard was still the head of the Danish People's Party - she criticized a Supreme Court ruling. I no longer remember what the case was about, but it has probably been something of racism and immigration. Her denial of the Supreme Court ruling caused great anger in the media, because the legislative power is not supposed to interfere in the affairs of the judiciary.

It is not certain that Pia Kjaersgaard knew of Montesquieu's principle of the division of power at all, even though the political system of all member states of the European Union is based on this principle. Once, while still teaching, I asked my team if anybody knew who Montesquieu was. The disappointing result was that none of the students knew anything about him, so the principle of the division of power in the high school's teaching program has apparently been skipped, even though this principle is, in my eyes, as important a part of the national government as the general electoral law. It is e.g. not the suffrage that is threatened in Victor Orban's Hungary, but only the independence of the courts, that is, the principle of the division of power.

How much it pains me to give Pia Kjaersgaard the right, maybe she has a point in this matter. Because no matter how smart the Supreme Court judges are, a judgment will always ultimately rest on a judgment. After all, the idea that the Supreme Court finds the only objective truth is an old positivist lie. A judgment cannot be elevated to criticism. Of course, that does not mean that members of the parliament can just fire at the Supreme Court as much as they want. As a member of parliament, Pia Kjaersgaard clearly had a special duty to bow to the Supreme Court's judgments. After all, the principle of the division of power does not depend on a belief in the objective truth of individual powers, but on a recognition that power is corrupt. Therefore, the state power must be arranged so that it is always internally divided into three equal parts, the legislative (the parliament), the executive (the government) and the judiciary (the courts). And then, in any case, it is a gross violation of the essence of the people's government when members of the legislative power question the judiciary's decisions

In a healthy democracy, the three powers are independent of each other. Populists will always demand the supremacy of the executive over the other two. The task is to explain why this is a bad idea. And then it will be a great advantage if everyone knows about Montesquieu's teachings on the triplets of power.