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State Legal Thought in Russia 19th - Early 20th Centuries in Monographs and Scientific Papers: The Experience of Systemic Examination*

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Abstract

The paper presents the results of the next stage of a comprehensive study concerning Russian state-legal doctrines in the 19th and early 20th centuries, taken in the triune of the external form of their expression: in dissertations, in monographs and in scientific papers of the periodical legal press. The authors analyzed the content and results of publication of monographs and the most famous papers published by pre-revolutionary Russian political scientists on key aspects of the state (constitutional) law science. Data are presented on the main priority areas of research, poorly developed fields of public law science, the laws of genesis and evolution, respectively, of monographic and periodical state-legal doctrines. The methodology proposed for the identification, analysis and general theoretical evaluation of state-legal doctrines has every reason to be applied for obtaining comprehensive knowledge of other branch pre-revolutionary legal doctrines.

Keywords: State-legal doctrines, Monograph, Scientific paper, Russian empire, Form of scientific knowledge.

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Introduction

Long-term work on studying the history of scientific personnel attestation in the Russian Empire led us to identify the main objective laws of the state policy in the field of awarding academic degrees on civil and state law [1, 2, 3]. However, all our past efforts were focused on a strictly defined (and somewhat limited in scope) object, namely, dissertations that passed the procedure of public defense. At the same time, acquisition of objective knowledge concerning the comprehensive development of this or that branch of jurisprudence, as well as of the entire legal science at a particular period of its evolution is associated exclusively with the inclusion in the object under study of monographs and papers of the periodical press. The latter represent other external forms of expression of legal thought, teachings and doctrines. Therefore, their analysis, together with the available data on the dissertation area, will lead in our opinion to a successful solution of the problem on systematization of legal doctrines in Russian legal discourse. This paper contains the analysis results for state-legal doctrines presented by Russian scientists in their monographs and scientific papers in the XIX - early XX century.

Methods

Numerous attempts of Western [4, 5, 6, 7] and Russian [8] scientists to rationalize legal thinking and develop an effective methodology for legal research deserve a positive evaluation. However, they only remind us once again of the need to continue working in the direction indicated above, namely: to analyze accumulated ideas, concepts, terms, hypotheses, theories through the prism of the forms of their external expression taken in triune unity (theses, monographs, scientific papers). No one has seriously dealt with them to this day.

Our methodological system included such methods as the identification, systematization and analysis of state-legal doctrines presented by Russian scientists in monographs and papers. Their subject was the problems of the science of state (constitutional) law of the Russian Empire (19th - early 20th centuries), legal hermeneutic and comparative-historical study of the results obtained in these works (the main criterion is the attribution of the result to a known form of scientific knowledge).

This methodology was first proposed by Professor A. N. Yakushev. It showed its effectiveness during the implementation of the state research program "Universities of Russia" initiated by the Ministry of Education and Science of Russia in the early 1990s of 20th century [9].

Discussion

As noted above, based on the already available information on the dissertational state-legal doctrines that were formed and developed in the nineteenth and early twentieth centuries, we have conducted a chronological and thematic classification of the published monographs and systemically important papers in the periodical legal press for the specified period. As a result, a rather unexpected picture was obtained. We excluded educational publications, as well as papers that do not carry fundamental scientific research, which were numerous in the pre-revolutionary period, and they prevailed over monographs. As a result, we found a relatively small amount of *monographic* literature within the framework of the pre-revolutionary science of state law, and the *papers* in the periodic scientific legal press, which number was approximately comparable with monographs (though considerably larger in volume). Only those studies were evaluated that reflected serious research having a substantial scientific basis and contained specific scientific results. Numerous papers of a survey, scientific-educational, historical, philosophical, sociological and other nature or publications on the past significant events were not included by us in the sphere of the object under study. Such results of scientific search and systematization which are insignificant in quantitative terms, are explained by the following circumstances: firstly, the monographic studies

themselves, which are not connected with the writing of a master's or doctoral dissertation by the author - political scientist, were extremely rare. Secondly, most of the monograph consisted of historical reviews of a particular institution, or the analysis of a certain doctrine of a West European (as a rule) thinker, and therefore could not be included in the field of state-legal discourse. Thirdly, many scientific papers from the periodical legal press were timed to a specific state or social event, introduced a reader to the course of affairs in the area of legislation reforms expected in the near future, or the system of government and administration (i.e., there were no legal teachings).

The volume of this scientific work does not allow placing a bibliography of monographs and scientific papers selected by us for the analysis of the state-legal doctrines contained in them. We only note that in most cases these were the works of well-known and distinguished pre-revolutionary Russian political scientists (A.A. Alekseev, A.S. Alekseev, A.V. Vasilchikov, V.M. Gessen, V.V. Ivanovskii, N.M. Korkunov, S.A. Korf, F.F. Kokoshkin, S.A. Kotlyarevsky, N.I. Palienko, K.N. Sokolov, L.A. Tikhomirov, B.N. Chicherin, L.A. Shalland, and others), which by the end of the 19th - beginning of the 20th centuries practically formed the foundation of the national state law science.

In the course of analyzing the content and effectiveness of *monographic* studies, we have determined the following patterns as to this form of external expression of state-legal doctrines for the 19th and early 20th centuries.

1. The number of published monographs is almost four times less than that of defended theses (30 monographs against 130 theses). Obviously, the volume of monographic development of the entire legal science was much broader, however, as it turned out, a minority of monographs on strictly state-legal issues was published. Russian political scientists rightly sought an explanation for this in the methodological problems of state-legal science, when "inability to understand the task of state law as a legal science, to keep within the limits of research and use research methods arising from this task, is undoubtedly the main reason for the failure of scientists in this area " [10, p. 4].

Actually, if we compare the number of published monographs on state law (apart from the educational literature and works on related problems) with the results of thesis research, we can see a significant predominance of the latter. This trend has been noticeable in the second half of the XIX century, what was directly stated by A.D. Gradovsky in 1871: "Legal books are written here not in the name of any urgent social needs, but for obtaining an academic degree" [11, p. 88]. Indeed, excluding those monographs that were published to defend master's or doctoral theses, we received the above picture.

2. One can feel the influence of the Western European state-legal tradition in the choice of methods and subject-object preferences of Russian political scientists (what goes without saying, given the numerous and very long duty journeys of Russian jurists to universities in Germany, France, England for training, with the inevitable perception of a particular scientific school). Upon that, an optional historical method was actively used along with the basic dogmatic method to achieve the research objectives. It is the combination of dogmatic and historical approaches in legal studies that characterize monographic discourse in the late 19th - early 20th centuries in the state-legal thought of Russia. Most of the monographic works from all sections of the pre-revolutionary science of state law were published within the framework of the special part of law, where the self-government doctrine applies attention.

3. One can consider the predominant focus of attention of political scientists on achieving practically meaningful results rather than on building theoretical (methodological) concepts for future research (this was more characteristic of thesis works) as a distinctive feature of monographic discourse. The authors sought in most of their monographs to propose options for modernizing various areas of state-legal construction, various ways of reforming the government's legal policy, assessing the effectiveness of the functioning of legal institutions and norms.

4. At the same time, one can not fail to note such a feature of the monographic development of the state law science in the nineteenth century (and also partially in the early twentieth century), as a nonsystematic, fragmentary nature of the research. At least in the late nineteenth century, this fact was repeatedly brought to the attention of the political scientists themselves, as, for example, in the statement of N. O. Kuplevsky: "Despite the persistent work of a few individuals who have devoted their efforts to the study of issues of state and administrative law, the scientific field is too broad for a small number of employees working on it, and many decades have been going on before the issue processed by one scientist would have get its continuation or a new treatment in the works of another scientist" [12, p. IX].

We have also received information on the evolution of state-legal doctrines, expressed externally in published *scientific papers* (identified and systematized by us, taking into account the criteria of logical validity, fundamentality, and effectiveness). Here we note the following *general patterns*:

Firstly, we can state a noticeable increase in the number of published fundamental, iconic papers prepared for the basic elements of prerevolutionary state-legal science by the beginning of the twentieth century. The only exception is the general part of the Russian state law science, within the framework of which no such work has been identified. This applies to all forms of expressing state-legal research: there are no serious studies in the general part of the state law.

Secondly, in its entirety, papers in the periodical legal press supplement and concretize the thesis and (especially) monographic development of these issues as part of general scientific state-legal discourse. In particular, those elements of the state law science which have been underexamined by political scientists, were often studied and analyzed in papers. For example, the doctrine of the legal status of ministries has been developed both in theses and monographs, and in periodicals, what symbolizes the unity of the external expression forms of these teachings.

Thirdly, most of the papers contained conclusions obtained by the authors with a view to their practical application in lawmaking and law enforcement activities. The same applies to those works in which the historical method was actively used (along with the dogmatic method), which was the basis for identifying the conditions for the effective development of state-legal institutions in the future.

Fourthly, the scientific discourse in the periodical press is distinguished by a deeper elaboration of certain problems, the conditionality of research by previous publications, an active discussion and criticism of the concepts, theories, ideas and other forms of scientific knowledge put forward by domestic scientists. Thus, the greatest number of disputes within the framework of scientific discussion was raised by the question on the legal nature of 17 October, 1905 Manifesto. Also, one of the scientific problems of pre-revolutionary state-legal discourse on the relationship between the decree and the law has been extensively studied for decades. Substantial discourse arose within the framework of the self-government doctrine. In the process of searching for the theoretical foundations of this institution, the political scientists were concerned about the essence of local self-government, the fulfillment of its own or state functions, and the exercise of powers.

Conclusions

As we see, the genesis and evolution of state-legal doctrines of Russian pre-revolutionary political scientists in the 19th - early 20th centuries had certain features and internal patterns, and the external form of their expression should be considered and evaluated in the unity of its three varieties: theses, monographs and periodicals. We consider it necessary to apply the methodology proposed in this paper for the search, analysis and systematization of legal doctrines, not only within the framework of state-legal discourse, but also in relation to other branches of Russian jurisprudence of various periods of its development. This will

make it possible to make better use of scientific achievements of the past in developing legal policy and lawmaking in the Russian Federation, as well as in developing a strategy for convergence of legal systems in the modern global information space.

Footnotes

1. Apolsky, E. A., & Mordovtsev, A. Yu. (2017). Civil law doctrines in thesis research of universities of the Russian Empire [Text]: monograph. Moscow: Yurlitinform.
2. Apolsky, E., Baranov, P., Mamychev, A., Mordovtsev, A., & Ovchinnikov, A. (2017). Doctrinal and Legal Developments of the State Law Institutions in the Context of the Russian Legal Mentality (XIX - Early XX Centuries). *Man In India*, 97(23), 105-113.
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12. Kuplevassky, N. O. (1888). *Public service in theory and in the existing law of England, France, Germany and Cisleitan Austria: Disciplinary responsibility. State exams. Limits of obedience of private persons to orders of officials*. Kharkiv: Printing house of M.F. Zilberberg.

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