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Doctrinal Basis of the Soviet Law Science — Epistemological and Praxeological Dimensions

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Abstract. *The article considers the Soviet dissertation theoretical and legal doctrines as a scientific category with a set of specific features. The author draws attention to the fact that the massive layer of legal theoretical knowledge known as Soviet jurisprudence and the legal teachings reflecting the evolution of Soviet law are insufficiently studied in ontological and epistemological terms. In specific, the role, place, and significance of Soviet dissertation legal theoretical teachings are lacking in the literature. Moreover, the Marxist methodology of legal knowledge, which should be used in modern educational and scientific space, lacks clear assessment. The author analyzes the most important thesis on the theory of law, which reflect the ontological and methodological foundations of the Soviet law and legal theory presented in the theses. This article lays the basis and the vector of further development of Soviet jurisprudence. These dissertation doctrines are analyzed to further use them in the scientific research of laws and trends in the development of Soviet legal thought. The results of these analyses are crucial for the history of political and legal doctrines, general theory of law, and philosophy of law and can be used in other areas of legal (including industry) science, considering their interdisciplinary heuristic potential.*

Keywords: *legal doctrine, law, Soviet law, jurisprudence, dissertation, methodology, essence of law, and science.*

Introduction

In order to understand a phenomenon, it is not sufficient to simply study the various forms of its external expressions: it is often necessary to refer to the first principles, the origins of its development, and how to apply it to the changing conditions in the developing world. Compliance with these conditions permits access to objective knowledge about the phenomenon under study. Among such categories, law, legal phenomena, and jurisprudence are of primary importance. They are the most complex categories, the objective understanding of which is possible only by considering the multiplicity of their features (facets, characteristics, and properties).

The versatility of law as a complex social phenomenon, its importance for the organization of social relations (giving them stability and dynamism), and the absence (fortunately or unfortunately?) of a generally accepted and unified definition of the concept of "law" together were the factors that led to the emergence of numerous studies resulting in well-known theories and concepts, bold hypotheses, and scientific ideas that explain its essential and functional features.

The most "mysterious" category in the field of legal reality is, oddly enough, the Soviet law and the Soviet jurisprudence, which remains insufficiently studied. At the same time, the study of Soviet jurisprudence, the views of Soviet jurists on the main categories of law, its essence, and the system of legal phenomena are of key and decisive importance in the process of forming modern man's legal consciousness and legal culture.

The pre-revolutionary (imperial) stage of the development of law and state science, which

took place between the 19th and early 20th centuries, was characterized by understanding the need for a general theoretical knowledge and its active development by Russian jurists (naturally, considering the peculiarities of domestic jurisprudence, which was largely based on the works of Western European thinkers and made the first independent steps in the law knowledge). Firstly, our attention should be drawn to the qualification works, master's and doctoral theses prepared at the Russian imperial universities. These were the pinnacles of scientific creativity with a deep study of the law and state problems, which were the subjects of university discussion and public dispute procedures. They served as the basis for further monographic research and writing outstanding articles in the periodical legal press, while it should be recognized that some scholars' work on their study, has already been carried out and is still being carried out [1–4].

However, in the question of assessing the role and significance of the Soviet stage in the development of legal science, there are many unclear aspects. As historians and legal theorists rightly point out, insufficient studies have been made regarding the process of domestic law's gradual development. Of course, it should take more than one century to be able to consider the features of this complex phenomenon "at a distance." However, it is necessary to begin this work today.

Tools and methods

Traditionally, Western studies of the Soviet state and law are based on the problems of totalitarianism, which determines the corresponding development of legal matter. In this regard, we can distinguish the fundamental works of H. Arendt, C.J. Friedrich, Z.K. Brzezinski, G. Buchheim, H.J. Berman [5–8], which discuss the underlying causes of totalitarianism, its impact on the law enforcement system (particularly the judicial branch) and on the process of law-making. For the purposes of our research, the most important parts of their works are those where Soviet law is analyzed. Here the analysis made by H. J. Berman on the problem of the correlation between the law and legislation is noteworthy, as a result of which the author claims that even the Stalinist regime developed the legislation that effectively supported the economy and controlled the political forces in the country.

Jurisprudence, as well as Soviet law in general, is given quite little attention in foreign (especially Western) legal discourse, but the few studies that are available are very interesting: they attract attention in an attempt to objectively look at the processes that took place in the Soviet legal field, to understand them, and to formulate the laws of the Soviet law evolution.

According to K. Hendley, during the decades of Soviet power, the law was a sword used to please the political elite and not a "shield" available to ordinary citizens, which would effectively protect them from the state's arbitrariness. The central theoretical problem of her work is the process of the society's transition to a bilateral (mutual) concept of law, where it is valued by the political elite and a significant part of the citizens and is generally perceived as a mechanism for correcting mistakes and promoting interests [9]. Although the author primarily dealt with Soviet labor law, as well as the transition period in the process of the Soviet law evolution into post-Soviet law, the labor issues raised also require close attention. This is especially true at the present stage when a certain path of development of the new Russian statehood and legal reality has been passed (though not as long in historical retrospect as one would like), certain trends and patterns in law-making of the new Russia become noticeable, and this sets off and makes the previous Soviet experience more understandable.

F. J. M. Feldbrugge also deals with the place and role of law and jurisprudence in general at the end of the Soviet era [10]. His view is interesting as a historical look at the evolution of Soviet law and the state and the analysis of the Soviet constitutional order. According to the author, up to the mid-1980s, the Soviet Constitution was regarded as a joke and was not taken seriously in the legal field, both inside and outside the Soviet Union.

At present, the interest in the Soviet law and jurisprudence is not fading and studies on various aspects of this phenomenon appear regularly, which is certainly important for developing further objective knowledge about the subject. For instance, a sociological approach in the legislative process at the stage of the Soviet state creation is being analyzed [11]. Concepts such as "revolutionary legal consciousness," "socialist legal consciousness," and "revolutionary conscience" among others materialized [12]. Issues are raised about the value of Soviet law and its influence on national legal systems of other countries [13] and the determination of the Soviet law development by a special legal mentality and legal consciousness in the Soviet sociocultural environment [14, 15].

In general, the study of the Soviet law and legislation is complicated because the Soviet researchers of law and legislation were for a long time actually "pushed out of any multilateral scientific dialog with their Western counterparts: their main work created and, especially, published in the country, was followed by the dominant state political and legal doctrine" [16]. S. Moreeva rightly states that the Soviet jurists could not afford to

exchange the results of their research based on trust and mutual respect.

The aim of this study, therefore, is to present the Soviet jurists in the conditions of freedom to conduct an open discussion with their Western scientific opponents, albeit by the forces of modern researchers. The main purpose of this paper is to objectively analyze the results of their developments in order to effectively integrate the knowledge gained into the modern paradigm, removing the ideological plaque and bias in approaches that was caused, however, not by their subjective desires, but by the formed system with its pressure on goal setting and the style of the final conclusions.

The research is based on examining the mental elements and trends in the development of domestic political and legal thought, the complex "methodological preferences" of Soviet jurists, their worldview, and orientation in the study of legal phenomena and processes. To implement the stated research task (to consider the evolution of Soviet jurisprudence based on outstanding qualifying works), candidate and doctoral dissertations on law, defended by Soviet legal theorists, were used, in which the problems and issues of the law science methodology and the essential foundations of law were researched. The main method of research in this article is the legal-hermeneutical and comparative-historical approach.

Methodology of law knowledge: the basis of Soviet jurisprudence

It is no exaggeration to say that among all the branches of jurisprudence in the theory of Soviet law, the most developed area was the methodology of legal knowledge. Strictly and steadily following the Marxist ideology, Soviet jurists systematically developed and strengthened a generally unified approach to the knowledge of law and legal phenomena. According to the figurative expression of N.N. Tarasov, the main factor determining the features of the Soviet legal science in the field of methodological research was the imperative political "imputation" of materialistic dialectics as the only scientific legal cognition method [17]. Therefore, in almost every work devoted to the essential aspects of legal theory, methodological problems were given either the most important place, or they served as a necessary link in solving the tasks set in dissertations and monographs.

Before discussing a few landmark studies and their role in the formation of the Soviet law theory, it is necessary to define methodology, specifically "scientific methodology." This study defines scientific methodology as the application of a set of theoretical principles, logical methods, and specific techniques to test a scientific hypothesis. The methodology of legal science functions in the same way wherein theoretical principles of materialist dialectics, logic techniques, and special methods are applied to study legal phenomena.

Thus, emphasizing the problem of methodology and the importance of its research in law, V.P. Kazimirchuk noted that in legal science, methodological problems were given almost no attention. In 1964, he wrote that "there is not a single monograph, work, or dissertation that specifically examines the methodology of Soviet jurisprudence" [18]. Indeed, at that time, as V.P. Kazimirchuk rightly emphasizes, in the Soviet legal literature, there were only a few scientific articles devoted exclusively to the problems of law methodology [19–22]. However, indirectly, the methodology of legal science as an important problem was still raised and considered in other works of Soviet jurists.

Kazimirchuk also focuses on a special, "intrinsically necessary part of scientific methodology" — a system of logical (i.e., abstract-scientific) techniques, as well as on special methods for studying legal issues. According to him, the system of logical techniques includes the means inherent and used by a number or most of the sciences (methods of analysis and synthesis, induction and deduction, hypotheses and analogies, etc.). Among these methods, the method of formalization, as well as closely related methods of modeling and cybernetics in law is examined. Special emphasis is placed on Marx's method of ascent from the abstract to the concrete.

According to the author, the special methods of studying legal problems include the method of judicial statistics, concrete-sociological method, and the method of comparative-legal study.

Both of V.M. Syrykh's dissertations were devoted to the methodology of law knowledge. In his PhD dissertation in 1970, the structure, genesis and system as elements of historical and logical methods of law cognition are analyzed [23]; in his doctoral thesis in 1995, he analyzed the methods of state and law theoretical knowledge [24]. Of course, within the framework of a brief analytical review, it is impossible to disclose all the conclusions obtained by the scientist in his treatises. However, it was clearly a great advancement in the theoretical law in the Soviet and modern Russia. It facilitated obtaining systematic knowledge of legal science methodology with its other main components (subject, object, and theory), the basic principles of systematization methods for the state and law knowledge, the components of legal science methodology, and the relationship of dialectical logic principles with specific methods of state and law knowledge, among others.

V.M. Syrykh considered the method of the general law theory as a system of hierarchically interrelated general, special, and particular methods of scientific knowledge, modified in relation to the

specifics of the subject of the general law theory. The researcher denies the validity of dividing a single law object from the general theory of the philosophy of law, sociology of law, and analytical (dogmatic) law, and the prospects for the development of the law theory are associated with the creative application of ascent from the abstract to the concrete.

Considering the form and structure of knowledge on the law expressed by the theory, N.A. Vasiliev's thesis focused on the problems of the logical legal theory and explored the rationale and hypotheses specification of the logical structure of the law theory, which expresses the basic concepts of the categories [25]. The author approaches the study of legal categories as an important prerequisite for further research and solving the problem of the system of general law and state theory categories. So, the knowledge of law, formed as a theory, summed up and objectified by the system of legal categories, is used in the dissertation as an object of study. Legal categories are understood as the concepts that are the ultimate in the level of generalization and abstraction within the boundaries of legal science, reflecting the most essential properties and main connections of all legal phenomena and therefore are the most profound in content and broad in scope developed by the law theory.

In addition, N.A. Vasiliev believes that legal categories are the link through which the unity of the law theory and its method is manifested; the theoretical system expressed by them simultaneously represents the objective basis of the law theory method.

The thesis also substantiates the logical and epistemological significance of legal categories, which are synthesized by the law theory. This value particularly reflects the specifics of legal manifestations, to express in the end a reliable picture of the real state-legal existence processes. To do this, according to N.A. Vasiliev, the logic of the legal categories' movement and relations should be extremely adequately reflected in the processes of development and changes in the legal form of public life. Law is a historical phenomenon, and therefore the necessary premise for the reproduction of its essence and development is the unity of the historical and the logical aspects.

Law theory is manifested primarily as a reflection in its conceptual structure of the main historical stages and trends in the law development and secondly as a relationship between modern changes in law and the theory of law, its logical structure. The structure, content, and categorical composition of the law theory is enriched and deepened not only via a deeper study of the history of law but also via generalizations of new processes of state-legal reality associated with the development of the political system and legislation typical for developed socialism.

In developing his concept about the unity of historical and logical aspects, Vasiliev emphasizes that law theory can and should justify such a system in their categories (which reflect the visible and hidden in the legal reality) and also would logically properly and historically accord the right to submit the origin and stages of law development, its current status, role, and future.

It is also quite appropriate to analyze the laws of science in the work of N.A. Vasiliev and the tendency to study them by Soviet jurists (S.S. Alekseev, D.A. Kerimov, M.D. Shargorodsky, L.S. Yavich), who observed only "a timid statement of the problem." Emphasizing that in its theoretical constructions, jurisprudence is based on objective laws revealed by Marxist philosophy, political economy, and scientific communism, Vasiliev speaks of the need to establish and express peculiar laws of the legal form by the law theory. In this regard, he proposes to formulate the basic law of the legal form of public life as the law of conformity of the ruling class' state will to the economic system and the cultural development of society.

The dissertation of N.A. Vasiliev, thus, contributed to the significant development of the law sciences within the framework of the Marxist cognition methodology, and the analysis of legal categories is particularly relevant today, during the discovery of new social relations that require their legal assessment.

Another logical and legal study was conducted by V.P. Shapanov in his dissertation "The Marxist method of ascent from the abstract to the concrete in the law study" (1976). Repeating his predecessors, he also suggests that the state will of the ruling class is the essential basis of legal reality, and in the conditions of developed socialism, essential basis is the general will of the people [26]. The author sees the ascent from the abstract to the concrete in the law knowledge in the mutual replacement of the ascent stages' content and in the reproduction of an increasingly rich content, starting from the original legal concepts. The content of the previous stages of the theoretical law representation is retained by the subsequent ones. At each ascent stage, the identification and distinction of paired concepts is made, as a result of which their common basis is isolated, which is reflected in the third concept. Offering the results of the development of the ascent from the abstract to the concrete, as a legal theory synthesis, the jurist, based on the general logical ideas of "Capital" by K. Marx and the materialist interpretation of Hegel's "Science of Logic," analyzes the movement of legal concepts in a holistic theoretical reproduction of the law conditionality, law-making, and law realization.

N.I. Gontsov's dissertation was also devoted to this problem, which is in demand in the Soviet theoretical and legal science (the interaction of the logical and historical in the law theory), the purpose of which is to develop ideas about the dialectical interaction of the logical and historical methods in studying legal reality [27]. The researcher objects to the idea common in the Soviet legal literature, according to which, in the historical method, the state and law are studied from the moment of origin and in the sequence in which it veritably occurs–and in a logical one — until the stage when they reach a certain maturity (G.B. Galperin, A.I. Korolev). In this case, according to the author, there is a tactical break in the connection between the logical and the historical, although nominally it is stated that their unity is necessary in the study of law.

Gontsov suggests that the focus should be on identifying the movement, interrelationships, and mutual transitions of the logical and historical in the process of law cognition. The approach, in which the historical method is used to study individual historical facts in all their diversity, while their logical connections are revealed with the help of the logical method, is not sufficiently developed. Here, the importance of demonstrating how the universal and the necessary are born in the individual and the accidental, and how the necessary is made up of a mass of seemingly random events, comes to the fore [27]. It is proposed to move away from the understanding of the historical method as auxiliary to the logical one, which serves only to collect the necessary empirical facts or give examples and illustrations. According to Gontsov, the historical method, along with the logical one, has an essential evidential value, and the dialectic of the logical and historical is one of the necessary conditions in the ascent from the abstract to the concrete.

Several scholarly studies were aimed at finding the logical foundations of law. Thus, in the doctoral dissertation of V.K. Babaev, the main goal of the work was the frontal study of the logic of law. The author rightly emphasizes that the complexity of law as a specific social education determines various aspects of its study (axiological, semantic, sociological, and logical among others). Logical methods of interpreting legal phenomena are also diverse, which actualizes the importance of the results obtained in the work by V.K. Babaeev for the development of law knowledge. The logic of law, according to the jurist, is researching the logical nature of socialist law from the standpoint of dialectical and formal logic, from the standpoint of their unity [28]. Babaeev does not ignore the problem of legal concepts and their role in legal regulation. Thus, noting that the legal categories are very thoroughly studied in the works by N.A. Vasiliev, D.A. Kerimov, V.O. Tenenbaum and other researchers, the lawyer presented his own characteristic of them in relation to provisions that are controversial or not yet reflected in the special literature.

The essence of the law basis

In their dissertations on the theory of law, legal scholars discussed the essence of law, or rather the scientific development of this fundamental theoretical and legal problem, albeit these aspects were practically dealt to a certain degree (scrupulously or superficially). Some authors saw this as their main task, while others saw it as a means to achieve a different goal. Let us consider the main results of the Soviet theoretical and legal thought in this direction.

One of the first special studies of the Soviet law essence was conducted by B. V. Sheindlin. Describing the general law concept, he justifies it as a system of norms, and not as a "set" of norms. In real life, law, as a social phenomenon, acts not just as individual norms, but in the objectively determined internal connections of these norms, as institutions, law branches, as a law system [29]. Law in society is not a simple set of norms, not a summary expression, but something integral. This, according to the jurist, is a qualitatively defined set, or a system of norms that make up an objective reality. Important conclusions are formulated by B.V. Sheindlin during the search for the Soviet law definition. In this regard, he calls for abandoning the "darning" of the accepted Soviet law definition, "correcting" it by adding some subjectively selected feature, or limiting it to editorial clarifications, and substituting the term "protected" instead of the term "provided."

The essence of law is also considered in the dissertation of K.D. Lubenchenko, the purpose of which is a system and structural analysis of the Soviet legal system genesis, its essence, functions and content of the development and organization laws [30]. Lubenchenko proposes expressing the quality and essence of law through the quality and essence of a certain system (or several systems) to which it belongs or with which it is in organic interaction.

In accordance with this, the dissertation highlights the essence of the first, the second, and the third order. The law's essence of the first order is reflected in its principles, norms, institutions, branches, internal, and external structure of the substantial relations underlying the origin, existence, and development of the socialist system as a whole, of which it is an element. The law's essence of the second order is determined by the reflection of the general laws inherent in it as a special type of social norms. This is its normative nature, regulatory function, and logical structure of the norm.

Conclusion

In this brief analytical essay, the fundamental qualification works authored by Soviet jurists were explored. Despite the existing ideological patterns and a certain methodological bias, these law experts tried to justify their theses as accurately as possible, presenting arguments with the aid of correctly selected methodological tools. It cannot be denied that a certain methodological bias exists, and this should not be exaggerated, since the dialectical Marxist system has proven its effectiveness in the law and state knowledge, and today there is no more powerful philosophical system operating on such universal and timeless principles of thinking.

The result of these efforts was a serious development of the essential law foundations, as well as related phenomena and institutions (law sources, law norms, legal relations, law implementation, legal behavior, legal responsibility, legal awareness, and legal culture). Systematic research of these works and their critical analysis are a matter of the near future; thus, it is important to use the right methodological techniques and select the most effective tools. At the same time, it should be noted that the digital restructuring of the entire social relations system that is currently taking place, primarily affecting science and education, and the pluralism in approaches to assessing historical heritage, give every reason to believe that the results of Soviet political and legal teachings will be objectively evaluated today both in Russia and abroad.

Another consequence of mastering the doctrinal foundations of Soviet jurisprudence is the possibility to further develop the history of legal doctrines presented in the dissertations by Soviet jurists, and in the near future it is valuable in the creation of an effective and practically oriented scientific data system. Russian and Western jurists should join efforts to create a data bank or an electronic reference system that would include new scientific results (hypotheses, scientific ideas, concepts, theories, etc.) obtained by Soviet jurists and their colleagues on key aspects and problems of legal science in general and the law methodology in particular. This will open the way to the legal knowledge objectification, a real rapprochement of educational and scientific spaces (the Bologna system in Russia, unfortunately, is only a beautiful model implemented on paper, but not in the process of practical training in law and teaching law) of Russia and the countries of Europe, Asia and America, and a closer cooperation in the humanitarian sphere.

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Аннотация. *В статье рассматриваются советские диссертационные теоретико-правовые учения как науковедческая категория, обладающая набором специфических признаков. Обращается внимание на то, что массивный пласт теоретико-правового знания, известный как советское правоведение, равно как и правовые учения, отражающие эволюцию советского права, в настоящее время недостаточно изучены в онтологическом и гносеологическом плане: в литературе отсутствует единая позиция относительно роли, места и значения советских диссертационных теоретико-правовых учений, не сложилась однозначная оценка марксистской методологии правового познания, которая не может быть предана забвению и должна использоваться в современном образовательном и научном пространстве. Авторы анализируют наиболее важные, ключевые диссертации по теории права, в которых отражены сущностные и методологические основы советского права, а также правовые учения, представленные в рассматриваемых диссертациях, которые заложили базис и вектор дальнейшему развитию советской теоретической юриспруденции. Указанные диссертационные учения изучаются и анализируются с целью дальнейшего их использования в процессе науковедческого исследования закономерностей и тенденций развития советской правовой мысли, при этом результаты имеют определяющее значение для истории политических и правовых учений, общей теории права, философии права, но вместе с тем могут быть использованы и в иных областях юридической (в том числе отраслевой) науки, поскольку имеют междисциплинарный эвристический потенциал.*
Ключевые слова: *правовое учение, право, советское право, правоведение, диссертация, методология, сущность права, науковедение.*

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