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DEVELOPMENT OF POLITICAL AND LEGAL CONCEPTS IN WESTERN SOCIO-PHILOSOPHICAL THOUGHT

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Abstract

The aim of the study is to identify the main trends in the development of political and legal views in the context of their socio-philosophical understanding by Western thinkers. It analyses the key concepts of state and law in their historical retrospective starting from antiquity to the present day. The research methodology is based on general scientific and general philosophical methods: dialectical cognition, analysis, synthesis, analogy, etc. Results and discussion up to the beginning of the twentieth century, the European legal thought was built and developed based on the concept of "rule of law", developed by the philosophers of the Enlightenment, being concretised and expanded in the direction of democratisation and legal equality of citizens before the law. However, a number of events that took place in the subsequent period significantly shook those legal ideals that had been developed in the public consciousness. Conclusions: the presented review reflects the multidimensionality and ambiguity of the phenomenon under study. Based on the approaches of prominent thinkers of the past and present, the authors conclude that the Kant-Hegelian concept became an axiom of the philosophical and legal thought. It was enshrined in the constitutions of some European states and served as a conceptual basis for further political and legal constructions.

Keywords: Law, politics, social philosophy, state

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1. Introduction

The issues related to the formation of civilizational universals, including those related to the political and legal sphere, are of particular importance today. The global world mediates the need for the establishment and development of new legal standards designed to regulate the system of relations in the new realities, where a completely different model of the world order and social structure is emerging (Dokuchayeva et al., 2024; Tang & Yang, 2024). Today's agenda brings to the fore such legal aspects as the correlation of national and international law, the interaction of justice systems, the political and legal reception of Western law in the context of the Russian statehood, and so on (Ahmad et al., 2024; Singh et al., 2024; Waite, 2024). At the same time, the question arises: which ideas, values and standards can be considered universal and which remain strictly national? In today's global world, how can we differentiate and correlate the processes of preserving one's own national identity and integration into the global space?

2. Problem Statement

It is obvious that the search for and the creation of universal political and legal concepts are not a panacea for the well-being of all, but it is important to interpret them in the legal consciousness of the participants of the global interaction, to accept, to comprehend and put them into action. At the same time, it should be taken into account that the formation of future ideological principles of the global legal order is hardly possible from scratch (Lipich & Balahura, 2024; Regnerová et al., 2024; Shumilina & Antsiferova, 2024). The entire history of humankind is a forward movement by layering new spiritual (and not only) experience; civilisation, developing progressively, absorbs the heritage and ideas of previous generations and multiplies them with each new stage of its development. In this regard, it seems particularly logical to consider the evolution of concepts of state and law in their historical development, extrapolating all the accumulated experience of humankind in this area to the situation of social development of today. Such analytical retrospective gives us a chance to take a critical look at the ideas of our predecessors and to assess the applicability of these ideas in modern realities.

3. Research Questions

The object of the study is the ideas of state and law in the Western system of law mania.

The subject of the study is the development of political-legal concepts in the Western socio-philosophical thought.

The multilevel nature of the concepts under study determines the use of a comprehensive approach to analysing the problem. It is not possible to use any single methodological paradigm to comprehend the entirety of the research subject.

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4. Purpose of the Study

The phenomenology of the concepts of "state" and "law" is considered at the level of many humanitarian disciplines: sociology, political science, cultural studies, philosophy, history, etc., in connection with which the authors have turned to general scientific methods of social cognition.

The dialectical principle of cognition allows us to consider the historical transformation of the ideas of state and law in the context of the correlation between universal and purely national traditions

5. Research Methods

The problem of the philosophical understanding of the phenomenon of "legal state" has a long history, going back to antiquity and more precisely to an earlier period of human history, when the biblical principles of existence were, in fact, the moral yardstick by which the whole system of regulation of social relations was built. "There was no other law that had such powerful impact on the course of history as the Bible did" (Lafitsky, 2008, p. 17). With the entire fairness and legitimacy of this thesis, in the study of the phenomena of state and law, it is traditionally accepted to refer to the period of antiquity. In the reflections of ancient thinkers it begins to form those ideas about law, law, state, which will become the basis of legal understanding in principle, and will constitute the historical and philosophical prerequisite for the formation of the future doctrine of the rule of law.

6. Findings

The evolution of the ideas of the rule of law in the Western European philosophical thought is traditionally associated with the names of Plato, Aristotle, Socrates, Cicero, Polybius, G. Grotius, F. Aquinas, D. Diderot, J.-J. Rousseau, J. Locke, S. Pufendorf, S. L. Montesquieu, J. Bodin, I. Kant, G. Hegel, Montesquieu, J. Bodin, I. Kant, G. Hegel and others.

Socrates, Plato and Aristotle defended the idea of the state as something reasonable and perfect, which is based on the principles of justice. According to Plato, statehood is possible only where there is justice, and the law "is the lord over the rulers, and they are his slaves" (Plato, 2020, p. 112). The ideal Platonic state was a holistic, reasonable unity, in which virtue triumphs, based on the laws of reason, where the only mission of power is to serve the just law. And although Plato regarded the state as a monolith, not dissecting it into legal, political, religious or moral, we can clearly trace his awareness of the value and importance of legal norms, laws, judicial decisions for the formation of a socially prosperous state. Plato's views played a huge role in shaping the entire further history of the development of political and legal ideology, becoming a prerequisite for the comprehension of the state as a legal category.

Following Plato, Aristotle puts the law at the head of the state structure, the law is the measure of justice and regulator of political communication; where the law does not rule, there is no talk of statehood. Considering the state as a given, arising from human nature, Aristotle focused his attention not on the essential aspects of statehood, but on its form and structure; according to his ideas, any state system is built on "three whales", three branches of power: law-making body, magistracy and judicial

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body (Gadzhiev, 2022, p. 12). Therefore, Aristotle actually came to the idea of the separation of powers, which would be developed a little later in the Enlightenment.

The theory of the separation of powers finds a significant development in the Polybius' General History. Describing the systems of government in Sparta and Rome, the philosopher found the form of government existing there, in which the powers of the three (consuls, senate and people), uniting, provide the best stability of the state. The advantage of such mixed form of the political structure was in the mechanisms of mutual deterrence and opposition of each of the branches of power; the maintenance of such balance as a result ensured the stable existence of the state (Dekhanov & Dekhanova, 2018).

The idea of the relationship between the state and the law finds its continuation in the works of Cicero, an ancient Roman politician, whose entire career was aimed at finding sustainable mechanisms of the state structure. Cicero became the founder of the idea of the "general law and order" and was the first among ancient thinkers to actually speak about the state as a legal institution. In general, it should be said that the Roman legal consciousness differed from the views of Ancient Greece. If the latter still considered the state as something natural and divine, based on moral foundations and common interests of citizens, the ancient Roman understanding of the state is more based on rational and pragmatic categories that determine the public-legal nature of the political system. According to R. Hiering, the highest value of the Roman worldview is not a person, personality and his interests, but property, any "booty". And accordingly, the state as a subject of law is first of all the owner of property. The author concludes that the development of private law ideas in the Roman law is a consequence of a specific, national invasive-mercantile ideology, originating from the deeds of Romulus and Remus. In any case, the Roman legal understanding for the first time sets a legal vector for the state (Hiering, 1875, p. 42).

With all the specificity of legal understanding, the philosophical thought of ancient Rome did not stop the search for the true legal beginning, and in the works of many authors we will find ideas about the justice of the higher reason, whose strengthening in the minds of mankind becomes the true measure of right and wrong, becoming the law. Cicero considered justice and after it the right as a birth of nature, to which a man should strive. Hence, in ancient political and legal philosophy, the idea of natural law began to take shape, which, of course, at that time, was very, very limited in application; it did not apply to every member of society, for example, women, slaves, barbarians did not have natural rights.

The Middle Ages continued the development of natural law concepts of the ancient times, proclaiming the will of God as the highest manifestation of morality and justice. An important moment in the development of legal ideas in the Middle Ages is the close interaction of customary law of barbarian peoples, church law and ancient heritage. This is essentially the foundation of modern Western legal culture. The theme of building a legal order on the basis of divine justice is widely developed in the works of Aurelius Augustine and Thomas Aquinas. Both of them, continuing the ideas of ancient Greek thinkers, proclaimed the idea of natural law, which comes out of sound human reason; law is the manifestation of justice in the divine order of human society. F. Aquinas in his reflections on morality notes that God gives man only the possibility of moral behaviour, and the way each person uses it depends on his will; the freedom of manifestation of the will is guided by human reason, and reason is a reflection of the Divine. So, medieval philosophy distinguishes the sphere of morality and the sphere of secular, secular law, proposing to interpret the law based on the internal, spiritual and moral motivation of

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human actions, prioritising the moral component of acts rather than the letter of the law (Dekhanov & Dekhanova, 2018).

One more important milestone in the development of medieval political and legal thought is the idea of the sovereign state. In the long-term internecine struggle between monarchs and feudal lords, the theory of state sovereignty as the independence of the state from external and internal influences was born. The basic principles of the sovereign state were conceptualised in the works of J. Bodin, where he initially talks about the denial of international and internal influences on sovereignty, and then defines its positive meaning through the establishment of individual powers of the state. Once again, we should mention that the concept of state sovereignty became one of the key stages in the formation of ideas about the rule of law and firmly rooted in the public consciousness, highlighting sovereignty as one of the defining features of the state (Osipov, 2013).

The philosophical and legal thought of the Enlightenment and the New Age became a kind of hymn to human freedom as its inborn, inalienable property. Freedom and equality of all and everyone were considered as the only possible condition of human life, limited only by the framework of the law, before which all are equal. The new sounding of the problem of correlation of law, equality and morality is reflected in the formation of many legal concepts, the essence of which was reduced to the fact that nature endows everyone with equal rights at birth, and becoming a unit of society, people should have equal rights and duties. Each person naturally strives to realise his personal interests, which means that the main task of the state is to provide a legal framework that does not prevent this, but, on the contrary, directs the internal movement of the individual to virtue, while satisfying personal benefits. The theme of justice in the Enlightenment was to a greater extent correlated with the categories of common sense and rational benefit; most theorists were of the opinion that what is useful for society is just (Spiridonova, 2008).

In the search for the best forms of the state structure, the theorists of the Enlightenment, first of all, favoured the legal restriction of the monarch's power and the dispersal of powers between the monarch, the aristocracy and the third estate and the legal institutions representing their interests (Osipov, 2013). G. Grotius, recognising law as a mandatory minimum of morality necessary for social existence, believed that the people have the full right to choose the form of government that would give each person the use of their property on the basis of a social contract. D. Diderot distinguished two possible types of state: despotic and sovereign, arising by the will of the people on the basis of a social contract. The main purpose of the latter is to ensure the natural rights of the people and ensure their welfare and happiness (Dekhanov & Dekhanova, 2018).

The views of J. Locke and his follower Ch.-L. Montesquieu had a significant impact on the development of the theory and practice of the rule of law. Locke's interpretation of the rule of law considers the latter as a guarantor of natural rights of citizens through the rule of law and separation of powers. The essence of this separation J. Locke justifies the principles of the inner nature of man – the ability to reasonable agreement (legislative power), the ability to make decisions on the basis of these agreements (judicial power), the ability to implement general norms and rules in each specific case (executive power) (Locke, 2021).

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Montesquieu, continuing the ideas of Locke, also distinguishes three branches of power in a sovereign state: legislative, executive and judicial. At the same time, the theorist notes that the interaction of these powers should be carried out on the principle of mutual restraint and control. The separation and restraint of powers according to Montesquieu are the guarantee of political freedom, which the author considers not as permissiveness, but as an opportunity to do everything that is allowed by law. The author paid special attention to political freedom in relation to the individual, believing that ensuring it depends entirely on the quality of justice. The cardinal, causing a lot of criticism, difference of Montesquieu's theory was his position on the judicial power, which he gave an independent status, separating it from other two. Justice was seen by him as a special reflection of national sovereignty, different from legislative and executive actions, so it was endowed with special autonomy, which should form a third power, independent of the first two. The theoretical views of Locke and Montesquieu on the freedoms and rights of citizens and the separation of powers became the basis for further development of the concepts of the rule of law (Albov, 1999).

The undeniable quintessence of the theory of the rule of law in the Enlightenment period is the doctrine of Immanuel Kant, who clearly defines the contours of the rule of law to which any society should ideally aspire. His long and thorough study of the development of world history leads Kant to the conclusion that the goal of humankind is predetermined by the secret plan of nature, and the course of history is only a path to this goal. According to Kant, every human being is endowed from birth with natural qualities that enable him to create good for himself and society. The secret plan of the universe is always throwing challenges to humankind: wars, conflicts, contradictions, and only passing through the crucible of social upheavals, humankind is able to come to a truly legal model of social structure, i.e. the society of free and equal citizens. Relying on the principles of freedom, equality and unity of law, Kant saw the ideal model of the state as a republic, the legal structure of which implies the division of powers into three branches. These are legislative, where the people carry out the adoption of laws; judicial, carried out by a jury; and executive, which according to Kant is carried out by the government. In this case, none of the branches of power interferes in the sphere of activity of the other; they only balance each other. The ultimate result of the Kantian doctrine is the creation of a global legal space and eternal peace between peoples. The idea of world citizenship, taken from the ancient Stoics, was crowned by Kant with the creation of a "universal state" (Kant, 1965, p. 54). In such world order, the main place is given to man, and the state based on the principles of law fulfils the people's will and protects the interests of citizens.

Kant's doctrine is further developed in the theory of G. Hegel. Hegel interpreted the legal state as "the realm of free will, the full realisation of the idea of freedom, the creation of human reason to conclude in itself the highest stage of self-consciousness of the spirit" (Hegel, 1934, p. 397). Regarding the forms of state structure, Hegel was an active adherent of the constitutional-monarchical system, criticising the principles of the sovereign republic. Hegel distinguished three forms in hereditary constitutional monarchy: legislative, governmental and sovereign power. He categorically objected to the confrontation of powers, advocating their organic interaction and integrity, the apogee of which is the power of the monarch. At the same time, Hegel, guided by the principle of reasonableness, noted that managerial state functions should be concentrated in the hands of honourable and best-prepared members

of society, the same was applied to justice and law-making (Nersesyants, 2013). In other words, according to Hegel, the prospects for the formation of state institutions outside the law are impossible.

The Kant-Hegelian concept, postulating a gradual, natural movement of society towards an ideal state of law, became an axiom of the philosophical and legal thought of that time, having been enshrined in the constitutions of some European states and serving as a conceptual basis for further political and legal constructions.

7. Conclusion

Up to the beginning of the twentieth century, European legal thought was built and developed on the concept of the "rule of law" developed by the philosophers of the Enlightenment, being concretised and expanded in the direction of democratisation and legal equality of citizens before the law. However, a number of events that took place in the subsequent period significantly shook those legal ideals that had been formed in the public consciousness. The two world wars raised doubts about humanity's ability to resolve problems peacefully and legally. Violence and bloodshed remained relevant, despite any philosophical and legal justifications for an ideal world order. The key point becomes the fact that the "Germanic kingdom", proclaimed by Hegel himself as the highest form of civilizational development, did not follow the ideas of its great legal ideologues. Inspired by the idea of the world domination, Germany chose a monstrous rather than legal path to this goal. Following it, the USA, too, began its way to the pinnacle of global supremacy, not hesitating to transcend all ideas about human rights and freedoms (Nersesyants, 2013). There are other, though not so "bloody", but no less fundamental aspects, which served the growth of the crisis of legal ideas in Modern History; their in-depth consideration and analysis are the subject of a separate study.

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