

## THE FORM OF STATE IN THE HISTORICAL AND LEGAL RESEARCH OF THE SOVIET PERIOD\*\*

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The subject of the article is the application of the concept of the form of state in the Soviet historical and legal science.

The purpose of the research is to confirm or disprove the hypothesis that the understanding of the form of the state in the Soviet history of law was not discrete, it changed under the influence of political transformations and had a significant impact on the modern theory of the state.

The methodology. The method of periodization was used to highlight the Soviet period of historical and legal science, the chronological method was used to determine the upper and lower boundaries of the Soviet period. The narrative method made it possible to describe the historiographic process. The historical-comparative method was required to compare individual concepts.

Results, scope of application. The concept of the form of the state that was used in the historical and legal science of the Soviet period has been determined. The form of the state in Soviet science included two elements initially: the form of government and the form of statehood. The third element has been added since the 1960s – the political regime. The institutionalization of the history of state and law as a science took place by the end of the 1940s. While historians of the old school were working, the main topics included the early stages of the development of the state. Then after the change of generations the priority place was taken by the problems of the Soviet state. By the end of the Soviet period a more harmonious allocation of topics had developed. In Soviet historical and legal science the form of the state of the pre-revolutionary and Soviet periods was considered separately. The form of government of the Russian state in the pre-revolutionary period was defined as a monarchy. Several types of monarchy were distinguished: early feudal, estate-representative, absolute. The republican form of government was recognized for the Soviet state. Its class and social essence changed with the development of socialism. Organizational forms changed accordingly. When studying the polity, the main attention was paid to the federation. Its complex origin was noted, because the Russian Federation (RSFSR) was part of the federation of the USSR. The Soviet federations were built according to the national-territorial principle. The issue of the constituent entities of the Russian Federation remained debatable. Most researchers considered the RSFSR a state with autonomous entities. The development of the territory of the state as a whole has hardly been studied. Major administrative-territorial reforms carried out in the 1920s-1930s were considered in isolation from national-territorial construction. Generalized works on the territorial development of the state appeared only at the end of the Soviet period. Issues of the political regime of the feudal and bourgeois state were addressed in the study of direct democracy in the ancient Russian state, estate representative bodies, state power during the period of absolutism. Political liberalization was noted during the bourgeois reforms of the second half of the 19th – early 20th centuries. The democratic nature of the Soviet political regime was not questioned, therefore, the problems indicating trouble, crisis phenomena in the Soviet state were not identified.

Conclusions. The understanding of elements of form of the state in the Soviet history of law was expanding. It changed in accordance with the changes in the Soviet governance. The main approaches to understanding the form of the state are accepted by contemporary Russian science.

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## 1. Introduction

The category "form of the state" refers to significant legal concepts, since it reveals the way of organizing political power, the very construction of the state. The term is widely used in the theory of state and law, state studies, as well as, although to a lesser extent, in historical and legal science. The need to study the form of the state in the interpretations of legal historians of the Soviet period is due to a number of circumstances. First, the studies of the form of the state, understood in its three-element version, including the form of government, the form of the state structure and the political regime, covered a significant range of scientific topics related to the state. The analysis of the reflection of this topic in the historical and legal works of the designated period allows us to more fully and comprehensively assess the state of the domestic legal doctrine at different stages of its development. Secondly, the three-element composition of the form of the state, which is widespread today, was formed and consolidated precisely during the Soviet period, at the same time it received practical approbation in essays of various subject areas. Thirdly, since the construction "form of the state" remains an actual category and continues to be used in the analysis of the state, both in historical and modern dimensions, it is possible to establish the degree of conceptual continuity in legal theory and in law enforcement practice. This, in turn, allows us to confirm or, on the contrary, refute the thesis put forward that "discreteness was almost the main feature" [1, p. 7] of the Russian historical genesis.

The form of the state is studied mainly from a theoretical and legal perspective. In the scientific and educational literature [2, p. 593-595; 3, p. 126-127], the element approach dominates, that is, the form of the state is determined through its constituent elements, the list and number may be different. According to V. E. Chirkin, who recognizes the limitations of such a technique, "the elementary concept of the form of the state has its advantages, it is clear, it is convenient for analysis" [4, p. 128]. The influence of objective factors (socio-economic, cultural, religious, specifically historical)

on the form of the state is noted [5]. The form of specific states belonging to certain historical types is studied [6].

In addition to the works of theoretical and legal content, the stated topic was touched upon in publications describing the political and institutional context that affects the subject of historical and legal research [7; 8], devoted to the evolution of historical and legal science in the Soviet period [9; 10] and the allocation of the main research directions developing within it [11;12]. However, the presented topic was not considered as a whole problem.

## 2. General characteristics of the Soviet period of historical and legal science

When studying the form of the state, it is necessary to take into account the peculiarities of the transformation of historical and legal science in the Soviet conditions. The obvious progress of historical and legal knowledge in the XIX-early XX centuries, the institutionalization of the scientific discipline, which was assigned the name "history of Russian law", was interrupted due to the change of political power in 1917. Modern authors prefer to write about a single revolutionary process of the beginning of the XX century, characterized by a prolonged action, and stopped no earlier than 1921 [13, pp. 332-334]. In this regard, the "unambiguity of the allocation of 1917 as a milestone date in the history of Russian science of the XX century" is questioned [14, p. 14]. From the standpoint of the proposed study, even a conditional date, one way or another tending to 1917, allows us to establish the lower chronological boundary of the Soviet period in the history of the state and law of Russia. The literature draws attention to the continuation of many previously initiated studies in the Soviet conditions [15, p. 68-75], but in the field of historical and legal knowledge, the degree of such continuity was lower than even in branch legal sciences due to the termination of teaching in universities of the corresponding discipline.

Awareness of the importance of the historical and legal component in legal science and education, accompanied by organizational, personnel and methodological measures, dates back

to the mid-1930s. Reconstruction processes continued in the post-war period. As a result, by the end of the 1940s, a science and educational discipline was formed, which received the name "History of the State and Law of the USSR" [16].

The democratization of public relations, which began in the mid-1950s, had a beneficial effect on the state of historical and legal research. The number of scientists was constantly increasing, publishing activity was intensified; the softening of ideological dictates allowed expanding scientific problems, opened access to historical sources, gave a certain freedom in methodology, theoretical assessments and conclusions. However, the tradition of separating and contrasting the pre-revolutionary and Soviet states persisted, which prevented the construction of research not according to the chronological, but according to the institutional principle. Therefore, the works in which the issues of the form of the state were touched upon were localized by chronological frames correlated with the historical types of the state.

As of the mid-1970s, the study "The Soviet state and law in the transition period from capitalism to socialism ... was satisfactorily evaluated, while more attention was paid to the first periods" [11. p. 14]. Accordingly, state-legal phenomena and processes that are as close to modernity as possible were studied less actively.

Having analyzed the historical and legal literature, O. I. Chistyakov identified four main directions: 1) the study of the formation of the Soviet state; 2) the study of national-state construction; 3) the study of the emergence and development of individual bodies; 4) the history of individual branches of law [12]. Thus, at least two of the designated areas were directly related to the study of the form of the state.

The limitation of the subject, practiced in historical and legal works, to a rather narrow chronological framework, did not allow us to trace the dynamics of the form of the state. The noted gap could be eliminated by comprehensive generalizing studies. Such work began in the 1960s and continued virtually until the end of the Soviet period. The result was the publication of three volumes of the history of the Soviet state and law

[17; 18; 19]. Together, they included material from 1917 to 1945. The author's composition brought together almost all the leading historians of law, who had to integrate their previous achievements into the collective work and conduct new research in order to ensure the integrity and harmony of the content. However, the released volumes were not distinguished by a serious conceptual novelty. Many complex issues, for example, related to the political regime of the 1930s, were not considered. It was not possible to make progress in the study of the state and law of the post-war and subsequent periods, so further work was stopped, and in general it can be considered incomplete.

The end of the Soviet period of historical and legal science dates back to the early 1990s. A positive result can be considered the expansion of the circle of researchers and the topics they were engaged in, smoothing the bias in the study of the pre-revolutionary and Soviet periods of the domestic state. The source base was constantly enriched, as new documents were introduced into scientific circulation. Considerable material has been accumulated, presented by monographs, collective works, articles, dissertations, which requires historiographical understanding.

### **3. Study of the form of government**

"In modern literature, the form of government is traditionally defined as a characteristic of the structure and relationships of the highest organs of the state" [4, p. 138]. In the jurisprudence of the Soviet period, the term "form of government" was used in a similar interpretation. However, the doctrinal foundations of the Soviet historical and legal science were influenced by the fact that its formation took place in the conditions of strict ideological attitudes, when the class theory of the origin of the state was considered the only permissible one. It was emphasized that up to the socialist revolution, the state power had an antagonistic nature. This explains the replacement of the term form of the state by the term "political form of the state" and the use of clarifications in determining the form of government, for example, "feudal monarchy", "proletarian republic", etc.

The position of S. V. Yushkov, who wrote the first textbook on the history of state and law of the

USSR, and also formulated the subject of science, was of great importance for the institutionalization of historical and legal science in the Soviet conditions [20]. S. V. Yushkov, based on the formational approach, proceeded from the linearity of social evolution. He considered the first historical type to be a pre-feudal, barbaric state, in the form of government of which "the presence of remnants of the organs of military democracy" was traced [21, p. 94]. The concept of a pre-feudal state did not receive widespread support as among S. V.'s contemporaries. Yushkov (for example, S. V. Pokrovsky, A. A. Zimin expressed their disagreement), and among modern scientists [22, pp. 36-37].

The scientific preferences of the first generation of Soviet legal historians were formed in the pre-revolutionary years, so their interest in the early periods of Russian statehood, which correlated with the change in the political form of the feudal monarchy: early feudal, class-representative and absolute, is natural.

One of the first discussions among legal historians concerned the socio-political system of the ancient Russian state. The ratio of slave-owning, pre-feudal and feudal relations, the property status and the legal status of certain categories of the population were assessed differently. Omitting the course of the discussions, the reproaches of the participants against each other for insufficient assimilation of the Marxist methodology, we note that as a result, the concept of an early feudal monarchy was established, which is still being broadcast in scientific and educational literature. Subsequently, Soviet historiography hushed up the sharpness of discussions about the form of the state, on the contrary, it was argued that "S. V. Yushkov, B. I. Syromyatnikov, B. D. Grekov and other scientists, step by step, going the untrodden path... came to the correct conclusion that the state and law of Kievan Rus... were feudal in class nature, and the Kievan state was an early feudal monarchy" [9, p. 35]. S. V. Yushkov identified and justified the distinctive features of the early feudal monarchy: the relationship of suzerainty-vassalage, in which the supreme suzerain acts first among equals, and his functions are limited; there is a council, which includes the largest vassals; a

palace-patrimonial management system is built at the central level, and a feeding system at the local level; military forces are represented by a feudal militia [23; 24].

It is believed that it was in the 1930s and 1940s that the concept of a class-representative monarchy as a special form of government was established in the historical and legal science, primarily due to the efforts of S. V. Yushkov. Attention was focused on two important theses. Firstly, the dual nature of such a monarchy was noted, since the estate-representative bodies both strengthened the power of the monarchs, and at the same time limited it [24]. At the same time, the author did not use the term dualistic monarchy itself. Secondly, it was emphasized that "a class-representative monarchy is a necessary transitional political form from an early feudal to an absolute monarchy" [25, p. 40]. The feudal monarchy in Russia was assigned a long chronological period, during which it consistently took several forms. Scientists who ignored the place and significance of the class-representative monarchy in the general logic of the development of the feudal monarchy were criticized.

The study of the absolute monarchy aroused considerable interest among legal historians. Perhaps this was facilitated by a more frequent reference to the characterization of absolutism in the works of the classics of Marxism-Leninism, which allowed scientists to confirm their judgments with well-chosen quotations, believing that in this way they are protected from possible criticism. In publications, V. I. Lenin's statement was repeatedly repeated that under an absolute monarchy, the supreme power belongs entirely and not separately (unlimited) to the tsar.

Despite the seemingly theoretical and ideological certainty, the issues of absolute monarchy also caused serious discrepancies.

Until the end of the 1940s, the most obvious achievements in the study of the form of the state in the historical and legal perspective were observed in the chronological framework of the IX – XVIII centuries. The choice in favor of early time periods was demonstrated even by researchers who came to science already in the Soviet era. For example, K. A. Sofronenko, in 1941 defended her PhD thesis "The

socio-political system of the Galician-Volyn Principality in the XI-XIII centuries", then expanded the topic and in 1952 defended her doctoral thesis "The Little Russian order of the Russian state of the second half of the XVII and the beginning of the XVIII century." In 1946, S. A. Pokrovsky successfully defended his dissertation for the degree of Candidate of Legal Sciences, who, following his teacher B. I. Syromyatnikov, dealt with the problems of absolute monarchy. The most notable fact of turning to the study of the form of the Russian bourgeois state was S. L. Ronin's dissertation "Elections to the State Duma of Tsarist Russia (the Duma electoral system)", which was defended in 1941.

Since the 1950s, legal historians have been refocusing on the priority study of the form of the Soviet state. The change of generations in the scientific community affected, as well as the acquisition of its own history by the Soviet state over time. To illustrate, we can give the following example: if in the pre-war period in the bibliographic collections of new literature that were placed in legal journals, publications concerning the organization of Soviet power were usually included in the section on state law, now they were evaluated as works of historical content and were located in the corresponding section. The publication of the second part of the textbook on the history of the state and law of the USSR in the late 1940s contributed to the intensification of the study of the Soviet state.

The problems of the form of the state were reflected in studies devoted to the approval of the republic of Soviets [26; 27], the creation of higher [28; 29] and local authorities [30; 31; 32], where their organizational structure, personnel composition, and main areas of activity were analyzed.

The majority of legal historians who previously had other scientific interests were reoriented to the "Soviet" topic. Thus, S. L. Ronin, who was originally engaged in the history of the State Duma, as a researcher at the Institute of Law of the USSR Academy of Sciences, was constantly involved in projects dedicated to the Soviet state, eventually changed his research direction, defending his doctoral dissertation on the history of

the Soviet state and law in 1958.

The form of government of the Soviet state, through the prism of the organization and activity of the state apparatus, is analyzed in sufficient detail in the previously mentioned collective work [17; 18; 19]. However, the publication was brought only to 1945.

Thus, the form of government of the Russian state of the pre-revolutionary period was defined as a monarchy, within which several types were distinguished, and in the post-revolutionary period—as a republic, the organizational, class and social nature of which also changed with the development of socialism.

#### **4. Study of the form of state structure**

The form of state structure in the Soviet legal doctrine was understood as the method of territorial organization of the state.

In relation to the pre-revolutionary period, the unification and integration processes that ensure the territorial unity of the constantly expanding empire were most actively studied. The problem of the territorial structure was not singled out separately, but was only touched upon in the works on the creation and functioning of the central and local administrative apparatus.

The formation of the Soviet federation, based on the national-territorial principle, became a decisive factor in determining the conceptual approaches in works directly or indirectly related to the issues of state structure. As a result, there were three, often poorly connected directions.

The first involved considering the whole process of creating the USSR, identifying the legal nature of the union federation, establishing its features and differences from the federations of bourgeois states.

The second direction, which is genetically related to the first, focused on the study of national statehood within the individual Union republics.

The third direction focused on some abstraction from national issues and was engaged in the analysis of the system of administrative-territorial division.

Within the first two directions, research was conducted on the implementation of the right of nations to self-determination and the process of

state-building among individual peoples who were previously part of the Russian Empire. Academic institutes of the USSR and central universities intensively trained scientific personnel for the Union republics, offered and encouraged dissertation topics that reveal the causes, progress and results of the territorial consolidation of national identity. As a result, such works were written in relation to each republic, some of them can be cited as an example [33; 34; 35]. The form of the state structure of the RSFSR, as one of the Soviet republics, received a substantive study [36].

The most controversial issue was the subject composition of the RSFSR. Already in the 1920s, several research positions were identified. V. N. Durdenevsky considered all the autonomies, regardless of their status and names, and the rest, directly calling it Great Russia, to be members of the federation. Another group of researchers differentiated autonomies into types, believing that only autonomous republics are similar to state entities, and autonomous regions are actually national provinces [37, pp. 54-55]. Similar assessments, although in a more smoothed version, were present in Soviet state law in the subsequent period. O. I. Chistyakov considered the RSFSR a state with autonomous entities, but proposed to abandon the term "subject of the federation", replacing it with a different construction "member of the federation" [38, pp. 47-48].

Thus, recognizing the construction of the RSFSR on the principle of national-territorial autonomy, until the end of the Soviet period, the "nature of this federal state" remained unclear [39, p. 78]. The question of the peculiarities of relations within the Russian and the union federation also remained difficult and ambiguously solved.

In a generalized and systematized form, the results of scientific research on the form of state structure, taking into account the recognition of the fact of a complex federation, were consolidated in the collective work "National Statehood of the Union Republics" [40]. The flyleaf of the book specifically states that scientists from all the Union republics participated in its creation. The structure of the work also reveals an understanding of the essence of the Soviet federation as an association of equal subjects. First, the development of the

national statehood of the USSR, its current state is characterized, and then, consistently with the use of similar formulations, the development of national statehood (with the allocation of the current stage) of each union republic is characterized. The volume of material devoted to individual republics is proportional, the names are of the same type, the methods of presentation and interpretation are similar. Negative manifestations of national policy, disagreements and conflicts between the republics and the union center, as well as between the republics, including on territorial issues, have not received any coverage or at least mention in the book.

The section devoted to the historical development of the RSFSR was written by Doctor of Law O. I. Chistyakov, who headed the Department of History of State and Law of Moscow State University.

Despite the statement that "the study of the history of national-state construction is...in the best position" [11, p. 17], many questions remained outside the scientific field. Focusing on the study of the Soviet federation as a unique form of state structure, scientists did not allow its comparison with the territorial organization of the pre-revolutionary period, although "most national movements demonstrated the perception of the former imperial space as a natural environment for their self-realization" [41, p.43]. Modern science also draws attention to the fact that federalist projects that combined "seemingly incompatible principles of empire and nation" created "an original form of composite statehood" [42, p.30].

The generalization of the scientific results of the study of the state structure in chronological order shows that in the 1920s a significant number of publications were published, which, being synchronized with the administrative and territorial reforms carried out, solved the problem of understanding the planned and held events, their correlation with the doctrine of state law, well-known territorial models of foreign countries. The works of this period were largely applied in nature, they offered recommendations for the implementation, as it seemed to the authors, of the most rational and effective way of organizing the territory of the state.

Then, in the late 1930s, "attention to the

topic significantly weakened" [43, p. 11]. The restoration of research interest is observed only in the second half of the 1950s. The relevance of the topic was caused by the democratization of federal relations within the USSR, when many of the rights that they had in the 1920s were returned to the republics, and during the period of totalitarianism they were centralized by the union government. In addition, a major administrative and economic reform was unfolding, and the experience of economic zoning, tested in the 1920s, turned out to be very much in demand.

The concentration of efforts in the study of the form of the state of the federation, and in the federation on the national-territorial principle of organization, had profound consequences for historical and legal science. Excessive enthusiasm for the republican theme has led to the fact that "it seems that there is not a single work published in the republics recently" [11, p.17]. It should be noted that the article by O. I. Chistyakov with such an assessment was published in 1976, and later became part of the selected works.

As a result, the development of the territory of the state as a whole was poorly studied. Major administrative-territorial reforms carried out in the 1920s - 1930s, and replacing the former provinces, counties, volosts with regions (territories) and districts were considered in isolation from national - territorial construction. The subjects revealing the process and results of territorial demarcation, when the national-territorial entity acted as one side, were practically not touched upon, although, as modern studies have shown, "the interests of the autonomies were satisfied first of all" [37, p.316]. The only complete work that largely summarized the historical experience of administrative and territorial development was published at the end of the Soviet period [44].

An objective assessment of the historiographical experience that characterizes the features of the state structure in certain historical periods is necessary for a deep understanding of the current state of the territorial structure of the state and forecasting the prospects for its development.

## **5. Study of the form of the political regime.**

The category of political regime, in comparison with the other two elements of the form of the state, has entered the arsenal of domestic legal science relatively recently. Even in the publications of the 1940s and 50s, the form of the state was revealed as a combination of the form of government and the state structure. In particular, this position was defended by A. I. Denisov [45, pp. 241-244], under whose editorship a textbook on the history of state and law of the USSR, dedicated to the Soviet period, was first published in 1948. Modern scientists believe that the term "political regime" was introduced into domestic jurisprudence by I. D. Levin [46, p.31], and used by him to identify the main directions in the science of foreign state law. At the same time, I. D. Levin noted that he also adhered to the "double classification of forms of the state" for a long time [47, p.355]. although already in the 1950s, "the question of revising the old definitions has matured" [47, p. 356].

The direct transit of the concept of "political regime" into the Soviet historical and legal science for the study of ways of exercising state power did not take place. Legal historians who worked in the 1930s and 40s (S. V. Yushkov, B. N. Syromyatnikov and others) came to the problems of ways of implementing power when analyzing the form of government.

By the end of the Soviet period, the subject and chronological framework of research, which touched on various aspects of the political regime, significantly expanded. The study of the institutions of direct democracy, the communal orders of the Old Russian state [49], class representative bodies [50], the strengthening of state coercion during the period of absolutism [51; 52] continued. When referring to the history of bourgeois transformations of the second half of the XIX-early XX centuries, conclusions were drawn about the liberalization of the political regime as an integral part of the ongoing reforms [53; 54; 55; 56; 57]. In relation to the feudal and bourgeois state, the actions ensuring the protection of the existing political relations were highlighted [58].

Publications, at least indirectly related to the issues of the political regime of the Soviet state, can be grouped as follows. The first group will combine

works that affect various aspects of Soviet democracy (electoral legislation, attracting workers to Councils, courts, public organizations, etc.) [26; 31; 32]. The second group will include works on the protection of the rights and interests of citizens [59; 60], the third-on the activities of state bodies and the methods used by them in the exercise of their powers [61; 62].

Thus, based on the opposition of the pre-revolutionary (antagonistic) and the Soviet state that has developed in the Soviet historical and legal science, there were no complete studies reflecting the dynamics of the political regime of the domestic state over large historical periods. The two-element understanding of the form of the state that persisted for a long time, as well as the general unfavorable situation in the domestic jurisprudence and humanities, excluded the direct use of the term "political regime" until the end of the 1960s. Although the term has been approved in state law, it has not been used as a theoretical tool in historical and legal science. However, on the basis of publications concerning certain aspects of the history of the state, it is possible to reconstruct estimates of the form of the state of certain historical types. For example, qualitative studies based on a large volume of representative sources devoted to the "great reforms" of the second half of the XIX century and the transformations of the political system in the early XX century allowed us to move away from simplified interpretations of the reactionary essence of autocracy. The democratic nature of the Soviet political regime was not questioned, so the problems that indicate trouble, crisis phenomena in the Soviet state were not identified and were not studied.

## 6. Conclusions

The conducted research has shown that in the historical and legal science of the Soviet period, the definition of "the form of the state" was used not directly, but indirectly. In relation to states of different historical types, the form of the state, the form of the state structure was determined, the features of the political regime were touched upon. The article shows the main research directions that reflect the interpretations of the elements of the form of the state. Each direction is illustrated by

the most significant works. It is not possible to describe the widest possible range of publications on the topic within the framework of one article.

The possibility of using modern scientific tools for studying the accumulated historiographic heritage of the Soviet period is established. The stages of discreteness and continuity in historical and legal science are identified, the importance of verification and adequate assessment of research techniques and results is substantiated.



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