

THE MAIN DIRECTIONS OF THE STUDY OF FEDERALISM IN THE RUSSIAN LEGAL SCIENCE OF THE 1920s

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The subject of the study is the theory of federalism in the Russian legal science of the 1920s. The purpose of the article is to reconstruct the theories of federalism of the 1920s based on the study of a wide array of publications of this period. The research methodology includes the following methods. The chronological method allowed us to distribute legal facts and their interpretations in chronological order. The comparative legal method was used to compare legal phenomena and institutions of different periods. The method of hermeneutics was used in the interpretation of texts.

The following scientific results were obtained.

The 1920s were a special period in Russian legal science. The ideological demands of the Soviet government formulated an urgent scientific agenda. At the same time, the political regime of this period allowed for relative freedom of scientific activity. The discreteness and continuity in the study of the problems of federalism are noted. In Soviet conditions, the federal theme was of particular relevance because of its practical significance. The development of the theory of federalism was carried out simultaneously with the approval of the Soviet federal state, the legal consolidation of relations between its subjects. The organizational center for the study of the theory and practice of federalism was located in the system of academic scientific institutions.

The problems of federalism in the legal perspective were studied within the framework of state law. In addition, they were part of the subject of a new complex industry, which became known as "Soviet construction".

Publications of the 1920s reflected the interdisciplinarity of research interpretations. In the comparative legal aspect, the theory of federalism and types of federations were studied. In the political aspect, the features of the Soviet federation, its differences from the federations of the bourgeois type were studied. The practice of Soviet construction was analyzed and generalized from a practical perspective. The key research issue of the 1920s was to determine the legal nature of the Soviet Federation. Definitions of the legal nature of the RSFSR and the USSR were given. An important conclusion was made about the continuity and continuity of the forms of the Soviet federation. Many questions remained debatable. Clarity was not achieved on the following issues: on the composition of the subjects of the RSFSR; on the combination of national and state sovereignty. For the first time, the question of the place and role of the historical Russian center within the USSR was raised. During the period of the 1920s, priorities in the study of the problems of federalism changed. At the beginning of the period, the main attention was paid to the study of the federation as an effective way to solve the national issue. The federal structure was considered a transitional form of the Soviet state. A state built on the principles of proletarian internationalism was declared promising. At the end of the 1920s, the concept of a large unified state was most actively developed. It was proved that within the framework of the USSR, national demands are satisfied and the interests of all nations are respected.

1. Introduction

The study of the theory and practice of federalism demonstrates a high degree of scientific relevance. It is due to the need for constant monitoring and analysis of federal relations in Russia, and the development of proposals for their harmonization and improvement. Legal research confirms the importance of generalizing the Soviet experience of federal construction, since it was during this period that the foundations of the domestic federal state were laid, a state-legal model was formed, the organizational principles and mechanism of action of which have largely been preserved to this day.

1920s represent a special period in the history of the Russian state and law. The new economic policy covered a wide range of social relations related to property, budgeting, taxation, and administrative-territorial structure, which, taken together, directly influenced the distribution of powers between government bodies at various levels. The Soviet state was initially formed based on strong local Soviets and continued to develop in the dichotomy of “centralization – decentralization.” This socio-economic and political context was superimposed on the process of self-determination of peoples within the former Russian Empire, although during the NEP period its intensity decreased compared to revolutionary times. Of course, the most important event of this period was the formation of the USSR, the legal nature of which from the moment of its creation aroused enormous scientific and practical interest.

The incompleteness, novelty, openness and obvious promise of the federal form of government contributed to the emergence of different research approaches and thematic preferences. The political situation favored a certain scientific pluralism. The social sciences themselves, which included jurisprudence, had just begun to undergo restructuring taking into account Marxist methodology, while maintaining previous research practices, for example, foreign sources and literature were widely used, on the basis of which a comparative analysis of states with complex internal structures was carried out.

The originality of the period of the 1920s. in a specific historical dimension, as well as in the history of legal science, stimulated interest in the study of individual ideas and concepts that developed within its chronological boundaries, including those directly related to the problems of federalism, which was reflected in a number of publications. To this day, the works of Soviet scientists have not lost their scientific significance: N.Ya. Kupritsa [1], A.I. Lepeshkin [2] and other authors. The reviews prepared at INION in the late 1980s – early 1990s are highly informative, have a wide coverage of the material involved, and have an innovative approach. [3,4], when the question of the need to reform federal relations was particularly acute and required quick practical resolution. During this period, foreign researchers showed high interest in the history of the Soviet federation [5].

Despite the noted research groundwork specifically published in the 1920s. on federal topics, as an integral array, characterized by a special origin, composition of authors and reflecting the state of the legal doctrine of that time, has not been studied. Modern researchers have identified the need to understand the theoretical heritage of scientists of the 1920s. [6], its influence on constitutional legislation [7]. The relevance of studying the experience of domestic federalism was confirmed in connection with the 100th anniversary of the formation of the USSR [8].

The purpose of the article is to reconstruct the theories of federalism of the 1920s. based on an analysis of a wide array of publications from this period. The research methodology includes a chronological method, which allows you to build and consider legal facts in chronological order; comparative legal method, necessary for comparing legal phenomena and institutions of different periods; a method of hermeneutics used in interpreting texts.

For the historical reconstruction of the theoretical problems of federalism, as they were understood in the jurisprudence of the 1920s. there is an extensive source base. It directly includes the work of scientists of the 1920s. (G.S. Gurvich, S.A. Kotlyarevsky, P.I. Stuchka, N.N. Fioletov, etc.),

published both in the form of individual articles and monographs, and combined into thematic publications, the most diverse in content can be consider the collection "Soviet Federalism" [9]. To verify research positions, legislative acts (constitutions, decrees, etc.) were used. where the winning idea was ultimately consolidated. Now the new act became the starting point for further research.

2. Institutional conditions for developing problems of federalism

For Russia, historically established in the 18th - 19th centuries. The forms of organization of science were the Academy of Sciences and universities. Jurisprudence developed primarily in universities, which had large law faculties. Under Soviet conditions, the relationship between academic and university legal science has changed. The political leadership of the country considered it expedient to concentrate social science disciplines, which included jurisprudence, in a new institution - the Socialist (later Communist) Academy. Initially, two sections of the legal profile were formed within the Communist Academy: the general theory of law and state and Soviet construction. The issues of federalism were addressed from two angles: 1) in the context of political and legal doctrines with an emphasis on Marxist doctrine; 2) in contrast to the bourgeois and Soviet federations. In both cases, the comparative legal method was actively used, and in a relatively objectivist, politically neutral version. The federal structure was considered as a certain natural stage in the development of individual states. The possibility of conducting comparative legal analysis was favored by organizational conditions (for example, the Communist Academy had an extensive library, including foreign publications), and the professional competencies of scientists, who, as a rule, spoke several foreign languages.

The practical significance of studying the problems of federalism increased noticeably in the mid-1920s. in connection with the adoption of the USSR Constitution of 1924 and the unfolding major administrative and territorial reforms. In 1925, the Institute of Soviet Construction (ISC) was created as part of the Communist Academy, the very name of which already set the strategic vector for future research. The main scientific activities of the ISS

were carried out in sections, the number, list and names of which changed several times. At a certain stage, a "federal" section was created. In the anniversary article by A.N. Savenkov, director of the Institute of State and Law of the Russian Academy of Sciences, the legal successor of the ISC, indicated that the federal section developed the following major topics: "1) the process of creating the USSR; 2) the process of organizing the central system of financial authorities; 3) the state of the dictatorship of the proletariat and non-state class organizations of the proletariat and the poor and middle peasantry" [10, p.25]. Considering that the other three sections dealt with, respectively, issues of local government, local economy and other issues [10, p.24], it turns out that federal issues were understood as broadly as possible and focused on the study of central government and the competence of the union authorities.

In the second half of the 1920s. The main scientific efforts were aimed at identifying, describing and summarizing the accumulated experience of federal construction and developing recommendations for resolving current political and legal problems. Almost all scientists dealt with issues related to the national-territorial demarcation that continued during this period, the delimitation of the status of different types of autonomies, the official use of national languages, etc. At the same time, the synthetic, cross-cutting problem was the determination of the legal nature of Soviet federations, first of all, RSFSR and USSR.

Relative pluralism of the 1920s opened up different platforms for expressing scientific positions. For example, a very interesting book by N.N. Fioletova was published in Saratov by a private publishing house. There was a cooperative publishing house "Law and Life," which specialized in publishing legal literature. Several legal scientific journals were published. The restoration of university legal education in the format of Soviet law faculties since 1922 led to the inclusion in the curriculum of disciplines that included an appeal to the theory and practice of federalism. The authors of textbooks and various manuals were famous lawyers: P.I. Stuchka, S.A. Kotlyarevsky, D.A. Magerovskiy et al.

In the 1920s The study of the problems of federalism was affected by the incompleteness of

the substantive institutionalization of legal science. In the Russian Empire in the 19th – early 20th centuries, and especially after the adoption of the Basic State Laws of 1906, an independent scientific branch and academic discipline was actively formed - state law, the subject field of which began to include issues of the federal structure. F.F. Kokoshkin wrote about a union state or federation, calling them “federation, Bundesstaat” [11, p.255]. S.A. Kotlyarevsky considered the connection between “decentralization and federalism” [12, p. 48-67].

Under Soviet conditions, a new complex branch of social science knowledge was being formed - Soviet construction, which combined legal, economic and managerial components. At the same time, state law developed, which demonstrated continuity with pre-revolutionary discipline and sought to preserve a purely legal content.

In the early 1930s. State regulation in the field of science and higher education has increased, which has changed the institutional conditions for scientific activity.

3. Exploring the Russian Federation

The study of the Russian Federation was synchronized with the moment of its formation, and the key question was the general social purpose of the Soviet federation. In approaches to resolving it, two relatively separate positions have emerged. The first considered the federal form of government as the most consistent with the interests of nations, and, most importantly, with the requirements of proletarian internationalism. Thus, the transition from solving local problems to a global geopolitical reorganization would be projected. P.I. Stuchka wrote: “The Soviet federation is not an end in itself, but a means of voluntary rapprochement and the final merger of self-determining national parts” [13, p. 80].

Another position interpreted federation as a universal principle of territorial organization and management, not determined solely by national specifics. M.A. Reisner, arguing that “the very formation of the Soviets is not without some union connotation” [14, p. 373]. Differing interpretations of federalism reflected two objectively existing factors - the desire of nations for self-determination and the presence of a historical core

of the state dominated by the Russian population.

Explorers of the 1920s they tried to determine the subject composition of the RSFSR, but this issue remained “the most controversial” throughout the entire period [15, p.25]. The debatability of the issue was largely determined by the state of the conceptual apparatus. The term “federal subject”, established in modern legal science, was practically not used in the doctrine of the 1920s.

When considering the subject composition of the RSFSR, scientists were guided by the following considerations. Firstly, the formation of the Soviet federation was identified with the solution of the national question. Secondly, the legal form that was tested in the process of its implementation was national-territorial autonomy. Thirdly, the legitimation of a specific type of autonomy (republic, region, district) depended on a number of political, socio-economic, historical, cultural, demographic and other factors. Fourthly, the inclusion of all autonomies among the subjects or otherwise members of the federation posed the task of identifying the territory of the state that was not affected by the autonomization process. In general, the dominant position was that the Russian part itself is not a special member of the RSFSR, but it “remains precisely the main part” [16, p.20]. P.I. Stuchka wrote that the Russian Federation consists of the main core - the RSFSR and a number of autonomous republics and autonomous regions [13, p.47-48]. The autonomous and non-autonomized parts of the RSFSR were distinguished by V.N. Durdenevsky, but considered only autonomous republics to be state entities [17, p.30]. In his opinion, the legal status of autonomous regions and communes, of course, emphasized their national specificity, but in fact was close to the status of Great Russian provinces and districts. As proof, he cited the example that in the publications of the Central Statistical Office and a number of official documents, the German Labor Commune is called the Markstatt province [17, p.31]. A.M. Turubiner. [18, p.48] and K.A. Arkhipov [19, p.41] spoke even more unequivocally. They believed that autonomous regions are actually national provinces, since the legislation confirms the equality of competence of the authorities of the autonomous region and the “ordinary” province.

Against the general background, B.D. Pletnjov's position was sharply discordant. Pletnev, who even called autonomous republics local territorial units, arguing that they "have not "state", but only narrowly "provincial" autonomy, in their competence they are not much different from the competence of our pre-revolutionary provincial zemstvos" [28, p.29]. Note that the article of B.D. Pletnev was published in the magazine "Law and Life".

The term Great Russia was often used to designate the non-autonomized part. It was used by V.N. Durdenevsky [24, p.31], G.S. Gurvich [29, p.22] and other authors. Great Russia was understood as a collection of Russian provinces, but without a specific territorial reference. From the context of the publications, it can be understood that Great Russia was identified with the historical center of Russia, but it remained unclear whether the territory of the Urals, Siberia, and the Far East could be included in its composition.

The prevalence of national interests over considerations of socio-economic expediency was fully manifested during the administrative-territorial reforms that began to unfold in the mid-1920s. According to the original plan, it was planned to move to a uniform administrative-territorial structure, choosing the region (krai) as a large unit. Zoning, as this reform was often called, was based on the scientific recommendations of the Russian school of economic geography, taking into account the economic specialization of the regions, objectively existing exchange, trade and other connections. At the initial stage of preparation of the reform, the State Planning Committee played a significant role. Significant adjustments in the implementation process, a revision of the initially laid down economic parameters, were carried out not least because of the dissatisfaction of the autonomies, which opposed becoming part of the territories or regions. Therefore, national identity, the "specialness" of autonomies, intensified by the end of the 1920s, which was accompanied by corresponding interpretations in the scientific literature.

E.V. Alferova, summarizing the positions of researchers of the 1920s, makes the following

conclusions: "Firstly, the autonomous-federal status of autonomous national regions was initially interpreted by Soviet legislation and legal scholars in the exact image and likeness of the autonomous-federal status of all-Russian cells of the RSFSR - provinces" [3, p.48], however, later, especially after the adoption of the USSR Constitution of 1924, which draws a sharp line between autonomous regions and provinces, autonomous regions are approaching "more independent political unities of national minorities, i.e. to autonomous and union republics" [3, p.48].

4. Study of the USSR as a federation

Since the formation of the USSR and the subsequent adoption of the USSR Constitution of 1924, federal issues have been enriched with new research aspects. The question of the state-legal nature of the USSR came to the fore. A number of stories derived from it are being formed about the limits of the sovereignty of the USSR and the Union republics; on the mobility of the composition of the union and republican federation; about the relationship between the two types of federation, since the USSR included the RSFSR, and at a certain period also the Transcaucasian SFSR, which were federal republics.

Explorers of the 1920s when resolving these issues, they sought to rely on legislative acts. The Constitution of the USSR of 1924, having incorporated two acts that laid the legal foundations of the new state - the Declaration on the Formation of the USSR and the Treaty on the Formation of the USSR, defined the USSR as a union state, established the jurisdiction of its supreme authorities, and at the same time secured the sovereignty of the union republics, recognizing its limitation only on subjects within the competence of the Union. As a rule, the most powerful argument indicating the existence of the sovereignty of a union republic was its right to freely secede from the Union.

Recognizing the imperative nature of constitutional norms, scientists sought to show the peculiarity of the state-legal nature of the USSR. Some authors recognized that the USSR had signs of a confederal state, the most important of which they called the right to freely secede from a single state, considering it not typical for a federation. The main guarantees of maintaining the integrity of the state were seen in the unity of the socio-political

system and the voluntariness of the unification [16, p.9].

The federal nature of the USSR did not raise any objections. Despite the opposition between federations of the bourgeois and Soviet types that has become established in the literature and has become almost obligatory, the USSR's satisfaction with the basic features of a federal state was proven. N.N. Fioletov wrote: "From the point of view established in state law, a federation is understood as a complex state formation made up of a number of states united under a single Union authority. A federation presupposes, first of all, a single union power, a single union organization, the presence of bodies representing the unity of the union and standing above the organizations of each of the member states" [16, p.6]. According to E.V. Alferova, definition of federation given by N.N. Fioletov, deserves the highest praise, since "it passes the test of in-depth insight into the essence of the issue even by the most stringent current standards" [3, p.28]. No less meaningful is the definition of N.I. Palienko, which is specified in relation to Soviet realities. He writes: "The supremacy of the union power over the members of the federation is expressed in the fact that, while in charge of the general affairs defined in the union constitution, the federal government has the right of supreme supervision and control over the implementation of union laws and orders by the local authorities of the member states of the union, as well as over compliance them the union constitution and union laws" [22, p.43].

The formation of the USSR was seen as a continuation of the implementation of federal principles tested in the RSFSR, a logical stage in the development of the Soviet state, where the supreme power has full state sovereignty - now in the form of a union power. They tried to explain the right of nations to self-determination and the immanently associated right to the secession of republics from the USSR through the relationship between state and national sovereignty. It was understood that the unification of the republics into the Union was a way to realize national sovereignty, and the USSR as a whole had state sovereignty. P.I. Stuchka argued: "In the Soviet federation, the unnatural division of the sovereignty of the nation comes to an end" [23, p.

43]. D.A. Magerovsky put forward the thesis about the potential sovereignty of the republics, "which is reserved in the right to secede from the USSR" [24, p. 38].

Turning to the definition of the legal nature of the USSR, scientists in every possible way emphasized its similarity with previously created federations. G.S. Gurvich wrote that the federalism of the USSR "is by nature and meaning the same as the federalism of the RSFSR and the Trans-SFSR" [21, p. 75]. The previously expressed forecasts about the prospects of the Soviet federation, as its transitional form to the unity of nations, received additional argumentation (already using the example of the USSR). The goal of such unity was to achieve virtual equality for all nations, but it was not identified with the depersonalization and assimilation of individual nations. On the contrary, it was said that although "the proletariat is not national, at the same time it shuns groundless cosmopolitanism" [21, p. 15]. It was declared that the international tasks of the proletariat were fully combined with the implementation of the right of nations to self-determination, since the constitutional norm was enshrined that access to the Union is open to all socialist republics, and the unification of the working people of all countries was declared. A significant correction of the theory of the Soviet state took place later, in the 1930s, "this theory was supposed to represent a kind of amalgam of internationalism and state-centrism" [25, p. 111].

The identification of objectively emerging trends to strengthen the centralized state can be traced already in publications of the 1920s. and is interpreted as a strengthening of state sovereignty, first on the part of the RSFSR, and after 1922 – on the part of the USSR. Analyzing the process of formation and functioning of the RSFSR, N. N. Fioletov came to the conclusion that the practice quickly established itself when the determination of general policy directions "was concentrated in Moscow and in all responsible actions the authorities of individual Soviet republics act under the leadership of the RSFSR" [16, p. 8]. "Expanding the role of the Union in various sectors of the national economy" [26, p. 60]. recorded by S.A. Kotlyarevsky, justifying the identified dynamics with objectively existing economic ties and the expediency of the transition to a unified all-Union

An effective way to strengthen the all-Union power is to expand its legislative powers. Issues of codification of all-Union legislation are discussed; conceptual approaches to the structure, scope and range of regulated relations of future draft all-Union codes are formulated.

The development of the Soviet federation is presented as a process of extrapolation of its model, initially tested in the format of the RSFSR, to an increasingly larger territory while maintaining the state unity that developed within the Russian Empire. N.I. Palienko considered the unification process of the Soviet republics, first with the RSFSR, and then within the USSR, as a single one, describing it in the general section entitled "Reform of the USSR" [22, p. 51]. With the formation of the USSR, "the federal structure of Russia receives clarity and certainty" [16, p. 8], and the term USSR "abbreviates the new Russian Federation" [16, p. 9]. The integrity of the federal state was emphasized in every possible way, it was directly stated that it "is a union legally indissoluble for individual members of the union" [22, p. 44]. Only the USSR was recognized as having state sovereignty. The concept of a strong centralized state was fully developed in the 1930s, and legally consolidated in the Constitution of the USSR of 1936.

5. Conclusions

1920s represent a special period in domestic legal science. On the one hand, the ideological demands of the new government set the current scientific agenda; on the other hand, the political regime during the NEP allowed relative freedom and variability of scientific research. The chronological proximity to the pre-revolutionary period of Russian jurisprudence was also evident, which led to noticeable continuity in research approaches. The noted circumstances influenced the study of the problems of federalism.

In Soviet conditions, for the first time, federal issues moved from a dogmatic plane to the area of practical relevance. The development of the theory of Soviet federalism was carried out simultaneously with the establishment of the Soviet federal state, the construction and legal consolidation of relations between its subjects. The system of academic scientific institutions was

aimed at combining theory and practice. The study showed that the study of federalism was influenced by the incompleteness of the process of institutionalization of certain areas of scientific knowledge. Federal topics turned out to be dispersed between state law and a new complex industry - Soviet construction.

Publications from the 1920s reflected the interdisciplinary nature of research interpretations. In the comparative legal aspect, the theory of federalism and types of federations were studied; in political terms - the features of the Soviet federation, its differences from federations of the bourgeois type; from a practical perspective - recommendations were offered for carrying out national-territorial reorganization and delimiting competence between government bodies at various levels.

A key research question in the 1920s. consisted in determining the legal nature of the Soviet federation and especially the specific forms of its implementation in the form of the RSFSR and the USSR. An important conclusion was the continuity and continuity of the forms of the Soviet federation. In the presence of multiple assessments, questions about the subject composition of the RSFSR, the combination of national and state sovereignty, etc. remained debatable. A distinctive feature of the federal theme of the 1920s. the question of the "Russian element" within the USSR was raised. Despite the short period of the 1920s. understanding and interpretation of the problems of federalism, especially in relation to the Soviet model of a federal state, have undergone a noticeable evolution. At the beginning of the period, the main attention was paid to federation as an effective form of solving the national question, and the transition to a state built on the principles of proletarian internationalism was declared as a prospect. By the end of the period, the development of the concept of the USSR as a single state, within the framework of which national demands are satisfied and the interests of all nations are respected, becomes a priority.

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