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CONTEMPORARY TRENDS IN SCIENTIFIC RESEARCH AND THEIR INFLUENCE ON THE CATEGORICAL APPARATUS OF JURISPRUDENCE

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The subject of the article is trends in Russian legal science.
The aim of the article is to analyze and systematize the facts accumulating in legal sciences and science studies, which develop into trends that negatively affect the state of scientific jurisprudence, its categorical apparatus and practical significance, including for lawmaking and law enforcement.
Methodology. The author uses historical, sociological, formal-legal, systemic and comparative methods.
The main results. The following trends have been studied: substitution of the relevance and novelty of the topic with considerations of political conjuncture, scientific fashion and other pseudo-scientific considerations; Constitutional reforms as a new round of constitutionalization in the aspect of correlation between constitutionalization and interdisciplinarity of legal sciences; the danger of escalating the interdisciplinarity of legal research into the erosion of its subject; methodological eclecticism; weighting of scientific language, negligence and incorrect use of certain legal terms; misuse of foreign terminology; disunity of science and practice of law enforcement.
Conclusions. Since the degree of practical implementation of scientific and legal research into legislative and law enforcement practice is too low, a more effective mechanism for analyzing and implementing specific proposals from legal scientists is needed.

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1. Introduction

V.V. Lazarev characterizes as relevant scientific topics those that "respond to the external and internal challenges of the time, which mean that they must be answered and reacted to" [1, p. 10].

At the beginning of the 21st century, such topics as "globalism" and "administrative reform" were relevant (In practice, it is the building of a vertical of power), "party system", later – "national security", "sovereign democracy", "constitutionalization","Digitalization", "Artificial Intelligence", "Robotization", "Bioinformatics", Legal Futurology.

Meanwhile, serious systemic changes are taking place in innovations that are almost not discussed with the scientific community and ignored by civil society. Thus, in 2002, there was an imperceptible separation from the institution of civil servants of a new type of status persons standing above civil servants, namely: The institution of persons holding public office appeared. This is an institution of two levels: 1) persons holding public office in the Russian Federation; 2) persons holding public office of the constituent entities of the Russian Federation. This is done in order to separate the requirements for employees and the political elite. It is assumed that civil servants work in subordination to persons holding public positions, and the latter work directly for the state and the people, They have special subordination and controllability.

The institution of persons holding public office is very poorly studied in legal science. Perhaps precisely because it affects the interests of the political elite, which does not really welcome close scientific attention to itself (especially to its privileges). At one time, the topic of the Electoral Code was relevant, and the Central Election Commission of the Russian Federation even signed an agreement for the development of a draft electoral code with the Department of Constitutional and Municipal Law of Lomonosov Moscow State University. However, the CEC of the RF abandoned the idea of an electoral code. As a result, the topic of the Electoral Code disappeared from the publication space.

Thus, one of the negative trends in modern scientific jurisprudence is the substitution of the relevance of the topic with political conjuncture, fashion, "dissertability" and other quasi-scientific considerations. These and other negative trends in legal research are the subject of this article.

2. Constitutional Reforms as Sources of New Scientific Topics and Next Rounds of Constitutionalization. Correlation between constitutionalization and interdisciplinarity of legal sciences

Scientific topics are updated and updated with each constitutional reform. The introduction in 2010 of the constitutional institution of the annual report of the Government of the Russian Federation to the State Duma has actualized the study of the responsibility of the Government of the Russian Federation. The amendments to the Constitution of 2014 did not greatly actualize the surge of new topics, since both of these reforms took place behind the scenes. The initial draft of the constitution reflected the idea of liquidating the Prosecutor's Office as an archaic institution in comparison with the new and "more progressive" institution of presidential commissioners in the regions. Only the intervention of the Prosecutor General of the Russian Federation A.I. Kazannik saved the Russian Prosecutor's Office from liquidation [3].

After the constitutional reform of 2020, a new list of relevant topics appeared: "traditional spiritual and moral values", "social solidarity", "federal territories", "status of the State Council of the Russian Federation", "youth policy", "trust in law" (on this topic, the Legal Forum was held on September 21-22, 2023 at the Moscow

State Law Academy), "people's trust", "the principle of trust", "reglobalization" and others.

In addition, a new surge of interest in the problem of "constitutionalization" began. However, there is a reasoned position according to which the 2020 reform did not strengthen the constitutionalization of domestic law, but weakened this process: "The amendments did not improve the Constitution of the Russian Federation, but, on the contrary, led to the formation of numerous and deepest value contradictions and defects that can form among citizens (...) a negative image of the Constitution as a declarative, "dead" and non-executable document by state authorities" [4, p. 28-29].

But there is another reason for constitutionalization. Digitalization of state and public life, political system [5], expansion of cyberspace, transformation of traditional constitutional and other rights [6], the emergence of new spheres of life and the expansion of the limits of legal regulation (artificial intelligence, robotization, etc.) [7], intersectoral incorporation of legal norms [8], as well as the processes of implementation of foreign law, which occur quite spontaneously and require philosophical comprehension [9] – all these processes lead to centrifugal tendencies in the legal system. Undoubtedly, in these conditions, a unifying, integrating basis was in demand, opposing the unsystematic centrifugal tendencies in the system of law.

Constitutionalization takes place in the form of a two-way process: 1) on the part of constitutionalists, who strengthen their research with examples from their other branches of law [10; 11; 12]; 2) on the part of representatives of other sciences, who increasingly operate with constitutional terms and doctrines: civil law [13], criminal law [14], environmental law [15], labor law [16], etc.

3. Interdisciplinarity of Legal Research or Blurring of Its Subject?

The Higher Attestation Commission and the scientific community as a whole have always welcomed the so-called interdisciplinarity of research, which involves the junction of several branch legal sciences, as well as the use of the achievements of other sciences, if required by the subject of research.

Constitutionalists are increasingly choosing dissertation topics at the intersection with other branches of law, and industry experts, in turn, are actively using constitutional tools. The convergence of constitutional law with other branch sciences is a justified process, because constitutional law in relation to other branch legal sciences plays an integrating role of a meta-branch [17]. The term "meta-branch" emphasizes the role of constitutional law in the system of law. And the science of constitutional law should be spoken of as a special branch science, differing from the classical theory of law in equipping itself with the ideas of constitutionalism. Ideally, the theory of state and law merges with the science of constitutional law, stems from it, as it happens in those countries where constitutional law is the science of state and law: Lawyers are initially constitutionalists. Students, studying the constitutional theory of state and law, are a priori aimed at the constitutionalization of the worldview and legal consciousness.

A competent lawyer, especially a judge, is impossible without constitutional legal awareness, and such interdisciplinarity is vital. Meanwhile, references to the Constitution are not welcome in legal proceedings, it is considered bad manners and amateurism. Judges prefer to refer applicants invoking the Constitution to the Constitutional Court. Judges practically do

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not use their right of petition to the Constitutional Court. They do not know how and do not want to use this right and complicate their lives.

However, the interdisciplinary nature of research should not lead to the erosion of the subject of research and the categorical apparatus of science, when it becomes unclear in which field of science this research belongs. The line between constitutional law and political science, social psychology, history and philosophy of law is especially shaky.

4. Separation from the philosophical foundations of law as its methodological basis and methodological eclecticism

The philosophy of law plays a methodological role in relation to all jurisprudence. There is practically not a single dissertation and abstract of an article in the field of legal sciences, which would not indicate the methodological basis. However, indicating the methodological basis and adhering to it are not the same thing. As S.I. Zakhartsev and V.P. Salnikov note, in many dissertations "the connection with the philosophy of law is lost" [18, p. 117]. Undoubtedly, this does not have the best effect on the depth of research and the objectivity of its results. Some representatives of legal sciences, including dissertators, indicate in their studies the traditional list of philosophical and legal principles, but often only formally, and in fact do not use them. "Such a method of research turns the philosophical-legal principle into a screen behind which one can hide from reproaches of philosophical and legal ignorance, and the study itself, devoid of philosophical and legal justification, loses its scientific significance and acquires a scientific-like form" [18, p. 119]. The use of the methodology of the theory and philosophy of state and law in branch legal sciences should be truly scientific, consistent, creative, meaningful, and not formal.

It should only be added that the philosophical foundations of any research strengthen its fundamentality, and fundamentality, in turn, means the researcher's awareness of all stages of philosophical thought on the subject of research, which creates his own fundamental idea of the roots of his science, knowledge of the fundamental works of his science. And fundamental works relate not only to the present, but also to the past, often written a long time ago, and modern researchers often only polish what has already been said or pass off the well-forgotten old as new. Unfortunately, this shortcoming is facilitated by the requirements imposed by the editors of some peer-reviewed journals, which recommend that the authors of articles refer primarily to the latest works of no more than five years ago, as well as not to refer to dissertations and abstracts of dissertations, even if they are doctoral dissertations.

Domestic journals make such requirements in the hope of obtaining the status of a journal belonging to international citation databases. Orientation to the latest achievements of science is beautiful in itself, but it should not be opposed to the fundamental foundations of scientific knowledge.

The ideological, ideological defectiveness of the scientist results in a phenomenon that can be conditionally called worldview eclecticism. According to A.S. Klimova, "in order to develop various legal statuses of an individual, it is necessary to take into account all existing systems of worldview regarding human rights and obligations. They cannot be opposed, but must complement each other." [19, p. 13]. This thesis is hardly indisputable: there are both racist and fascist worldviews, which can in no way "complement" the concept of human rights.

5. The heaviness of scientific language, negligence and incorrect use of some legal terms

As a drawback and a negative problem of scientific research, S.I. Zakhartsev and V.P. Salnikov note the tendency when "simple and understandable words are replaced by synonyms that are rarely used even in scientific literature. And it would be fine if such concepts were used accurately and correctly. But many concepts have several meanings, which ultimately creates confusion. You can be good about the fact that concepts from philosophy are used. However, it has become popular to borrow terms from physics, mathematics, (...) used in technical disciplines and not quite suitable for jurisprudence. The cumbersomeness of the proposed concepts should also be included here. In scientific works, short and capacious definitions are less and less common, and massive definitions containing phrases that are difficult to perceive are more and more common. Apparently, applicants sincerely think that this is what science is all about. However (...) the top of a professional achievement for a lawyer – the ability to express thoughts and laws in a simple and understandable language" [18, p. 127].

Some negligence in the use of certain terms can be illustrated by the example of incorrect application of the category "status" in relation to lands, territories, apartments, etc. Meanwhile, the category of "status" should be applied not to objects of law, but exclusively to subjects of law who have rights and obligations [20, p. 72]. Attention is drawn to the fact that even the title of a scientific work is often not based on theoretically substantiated provisions, established legal constructions and concepts [21].

At the same time, there are many examples when the category of "status" is applied not only to territories and land plots, but also to other objects, concepts and phenomena enshrined in the Constitution and other normative legal acts, for example, linguists write about the "legal status of the Rules of Russian Spelling and Punctuation of 1956" [22, p. 6], Constitutional and Legal Status of the Russian Language [23, p. 21]. A very interesting situation is emerging: is it possible that philologists, who by definition should feel the nuances of the Russian language, are so incorrectly treated with the word "status"?

In our opinion, the word "status" in philology and jurisprudence has different meanings and meanings, just as legal responsibility differs from responsibility in the moral and philosophical sense.

What term can replace the category of "status" in the works of philologists? After all, if the Russian language is indicated in the Constitution as the state language, it follows that it has the appropriate constitutional status. Other terms look less successful and do not sound as weighty as the term "status". In fact, what words are more expedient and more correct to replace the word "status" in the phrase "constitutional and legal status of the Russian language"? Maybe it would be better to "constitutional and legal consolidation", "... regulation", "regime"? Apparently, the word "status" here has a broader categorical meaning than the one that is attached to the legal characteristic of the subject of law. In this case, the words "constitutional and legal status" mean constitutional consolidation, constitutional regulation not only of someone, but also of something. Otherwise, it should be recognized that the use of the expression "constitutional and legal status of the Russian language" is incorrect, as well as the constitutional and legal status of the family, federal territories and other concepts present in the text of the constitution.

Thus, a dilemma arises between the position of scholars who advocate the correct use of the category "status", which can be applied only to

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subjects of law, and another position, according to which there is another, broader meaning of the category "status", which includes such meanings of words as "regulation", "meaning", "level of legal consolidation", "regime".

Undoubtedly, it is difficult not to sympathize with the positions of scholars who advocate the correct use of the term "status" only in relation to subjects of law, but it is impossible not to admit that the use of the term "status" in the broad sense has already acquired a large scope, and it is unlikely that it will be possible to put a barrier to this living linguistic process.

6. Uncritical borrowing of foreign terms and categories. The Influence of Abuse of Foreign Terminology on the Conceptual and Categorical Apparatus of Jurisprudence

In scientific publications, there has long been such a tendency as borrowing foreign words, ideas and concepts, sometimes absolutely uncritical, thoughtless, so to speak, for the sake of a "nice word" and ostentatious knowledge of foreign scientific achievements.

Thus, it is not clear what A.S. Klimova understands by "the genesis of the cyclical development of rights and legal obligations" [19, p. 21], borrowing this concept from foreign sources. Meanwhile, cyclicity is more characteristic of macro-processes in large historical periods and civilizations (the emergence, flourishing, development, withering away of states, the emergence and destruction of empires and civilizations). But what is meant by the cyclical nature of the rights and obligations of one and the same state, A.S. Klimova does not explain. Meanwhile, its thesis about cyclicity justifies rollbacks in the development of the rights and obligations of subjects and their guarantee by the state. Firstly, the subjects are diverse, and it is not clear which subjects we are talking about in this case. Secondly, willingly or unwillingly, the thesis of cyclicity is, in our opinion, a philosophical justification of the state's irresponsibility to society and the individual. But the author, carried away by a beautiful phrase from Western sources, does not seem to notice this. A.S. Klimova repeatedly uses the terms "legal acculturation and expansion" [19, p. 4, 13, 21], But it does not explain how these concepts relate to the well-known term "implementation".

The use of English-language terms, even if there are analogues in the Russian language, has become a very fashionable and popular process, as if giving additional weight to scientific research. Once V.V. Putin at a meeting with the scientific community remarked: "If you say "synergetic effect" - and you are already smart"[1].

Here are examples of excessive enthusiasm for foreign terms.

In the monograph of Professors D.S. Veliyeva and M.V. Presnyakov "Legal Certainty and Human Rights" [24] There are many such terms, and they themselves write in the preface of their book that it contains "quite a lot of philosophy and 'near-philosophical' reasoning" [24, p. 6]. Headings of some paragraphs: "Intelligibility of the law as a necessary condition for legal certainty" [24, p. 124]; "Paradigmality of constitutional development" [24, p. 207]; «Rule of Law» [24, p. 190]; «Rehtsstaat» [24, p. 194]; «(…) The Antinomy of the Steadfastness and Evolution of Fundamental Rights" [24, p. 351]. However, all these beautiful foreign terms may well correspond to the Russian analogue or the Russian explanation of the term. Thus, the term "justiciability", which is alien, in our opinion, is "judicial guarantee".

The term "justiciability", first used by foreign scientists more than a century ago [25, p. 225],

[1]URL: https://realnoevremya.ru/articles/247710-skolkovo-i-innopolis-sozdadut-obschuyu-innovacionnuyu-ekosistemu (accessed on: 17.06.2021).

never took root in domestic science. They made do with Russian terms and categories. But now, suddenly, it began to be actively used, including by young scientists. A.S. Klimova generously provided the abstract of the dissertation with foreign terms, including the term "justiciability", which she deciphered as "the possibility of real and protected implementation of rights and obligations" [19, p. 22]. Previously, this was called the short word "guarantee", which is more understandable to law enforcement officers than "justiciability".Apparently, some of our scientists write not for "down-to-earth" law enforcement officers and students, but for the "exalted" scientific community, which believes that foreign terms give great weight to scientific works.

Another example with a foreign term, this time in German. After Jürgen Habermas's book "Democracy, Reason, Morality" was translated into Russian and then digitized [26], A whole wave of publications with the terms "deliberative principle", "deliberative democracy", "deliberative participation" appeared [27; 28; 29]. Many years have passed since the appearance of this term in domestic publications, but the computer underlines it with a red line (as a mistaken word). The term has not taken root in the scientific community either, and makes a repulsive impression on practitioners.

It is not clear how, apart from terminology, deliberative democracy differs from deliberative democracy, and how the latter differs from deliberative constitutionalism, if they have the same tools in practical application.

The word "deliberative" is translated as "deliberative", "public" and means the use of communicative procedures by the state with the public. But why not express it in Russian words? Is it possible that the rich and powerful Russian language is not able to reflect what is simply called the legislator's consideration of public opinion in the process of lawmaking? O.B. Kuptsova calls this "state-public dialogical interaction" [30, p. 58]. In addition, a dissertation on advisory institutions of municipal democracy was defended [31].

The Russian words "deliberative" or "consultative" are no worse than the English term. Some scientists are fond of foreign terms, believing that science and science – It's the same thing.

For example, S.E. Libanova has been trying for many years to introduce the term "democuria" into the categorical apparatus of jurisprudence [32]. However, this term is still perceived as alien and unusual. The author writes that the term "democuria" is derived from the Latin word "kurij", meaning "supervision", "control", "people" [33]. However, in the literature and on the Internet, it is not possible to find such a translation of the word "kurij".

S.E. Libanova substantiates democuria as the control of civil society over power; part of this control – advocacy: "The analysis of the evolution of the legal profession as a phenomenal phenomenon allows us to assert that it is precisely this institution of civil society. (...) Demokuria is a new type of human rights activity, the subject of which is the bar" "An analysis of the evolution of the bar as a phenomenal phenomenon suggests that it is precisely it that is such an institution of civil society. (...) Demokuria is a new type of human rights activity, the subject of which is the bar" [33, p. 33]. At the same time, it formulates the title of one of its articles [34] in such a way that, in the end, democuria does not serve civil society, contributing to its control over power, but the state to ensure the effectiveness of its management of civil society: It is not civil society that controls power, but the state that governs civil society. And where is the democuria?

The distinction between "just society" as the non-institutionalized population of the country

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and "civil society" is blurring. The above title of the article seems to erase the signs of civil society, because society as a population can only be controlled.

Professor A.A. Kondrashev expressed his criticism of the laws restricting the constitutional rights of citizens rather ponderously, using the words "transparency", "stigmatize", etc., according to whom "The purpose of the restrictions imposed by the state was not at all the desire to ensure transparency and openness for society and the state in the framework of access to information on foreign funding of non-profit organizations, but the opportunity to politically stigmatize non-profit organizations and impose additional organizational and financial burdens on those of them that allow themselves to criticize state authorities" [35].

Dissertation candidate S.M. Arzumanova writes that she "has demarcated the concepts of forms, institutions, procedures and formats of municipal democracy" [31, p. 7]. However, the term "demarcatio" (delimitation) is more appropriate in military and other sciences, as well as as a delimitation of the subjects of science.

A more appropriate term in this case would be the term "delimitation", "correlation", especially since the author writes in another place: "The correlation of the categories of form, institution, procedure and format of municipal democracy is proposed" [31, p. 11]. In addition, the ratio may not necessarily be "demarcatory", but also intersecting, etc.

The use of foreign terms very much clogs up the categorical apparatus of jurisprudence. Foreign terms are often used in cases when the author himself either vaguely imagines the subject under study (he who thinks unclearly, does not clearly expound it), or deliberately obscures its "crude", simple content with a beautiful scientific appearance.

7. The disconnection of science and law enforcement practice is a serious problem of scientific research

A.N. Kostyukov emphasizes that "law is nothing if its provisions are not implemented (...). An analysis of the practice of law enforcement in all spheres of legal reality demonstrates a deep crisis of law enforcement, a widespread deconstruction of the ideas of the rule of law and the rule of law. Such a conclusion is relevant for the law enforcement activities of both executive and judicial bodies in all branches of law." [36, p. 160].

The scientist cites statistics of applications to public authorities with complaints against (...) officials, according to which complaints are fully or partially satisfied in 97% of cases, which indicates their validity. He states that "this state of affairs – a consequence of legal nihilism, deeply rooted among state and municipal employees, as well as persons holding public office" [34, p. 160].

Undoubtedly, the problem of disunity, the gap between science and the practice of law enforcement is part of the broader problem of the alienation of power and science. It should be recognized that not only they are to blame for the legal nihilism of the authorities, including law enforcers, but also science, when it is too far from the real needs of practice or the road from reasonable proposals of scientists to improve legislation to the implementation of these proposals is too long, or even insurmountable. Thus, not a single dissertation on branch legal sciences is defended without specific proposals from dissertators to improve the current legislation: substantiating the need to adopt certain norms and legitimize principles, clarifying and supplementing certain norms and institutions, overcoming contradictions in the current legislation, etc. The same can be said not only about dissertations, but also about many publications in the field of branch legal sciences, the authors of which formulate specific proposals.

However, only a tiny part of the proposals of scientists is embodied in laws and other normative acts, while the path from scientific proposals to legislative products can be so long that the proposal becomes either too overripe, or loses its relevance due to changes in the situation and social relations.

S.I. Zakhartsev and V.P. Salnikov prove the need for the function of implementing scientific proposals in the field of law, and, accordingly, for the body responsible for the implementation of this function. In their opinion, a system for evaluating proposals is necessary: if a researcher has studied the practice of applying legislation and has come to the conclusion (on the basis of the tested results) that it is necessary to change (clarify, adjust) the law, then he receives the opinion of a scientific institution (university, dissertation council, research institute), which is obliged to send specific proposals to the Center. In the Center, proposals are studied by specialists and sent to the legislator with their expert assessment. This scheme is similar to the procedure for evaluating dissertations by the expert council of the Higher Attestation Commission, but the latter was not created to implement the conclusions of the research. And then, as S.I. Zakhartsev and V.P. Salnikov note, the deputies "express bewilderment: where were the scientists before, although the importance and urgency of the changes were formulated long ago in the dissertations, there were also corresponding bills. Both scientists and legislators must move towards each other. (…) The practice of expert legal assessments of draft laws should be widespread, and, if necessary, they should be widely discussed in the scientific community [37, p. 305].

The creation of an effective centralized mechanism for recording scientific proposals would contribute to the implementation of specific scientific proposals set forth in dissertations, articles, monographs, analytical notes, recommendations of scientific legal forums and conferences. There is probably no other way to bring science, law and practice closer together.

8. Some conclusions: 1) The use of foreign language terms in scientific research and other modern trends can be justified and unjustified; 2) Researchers are often guided not by the essence of science as an increment of new scientific knowledge, but by various quasi-scientific motives; 3) Excessive use of foreign terms grows into a negative trend of clogging the conceptual and categorical apparatus of science; 4) It is futile to fight this phenomenon, because no one knows in the end whether this or that term will take root in scientific circulation or not, but scientists themselves must have a sense of proportion when using foreign terms; 5) Since practice is the main criterion of truth, the viability of certain terms is tested by it and, accordingly, by time; 6) Any negative trends in scientific jurisprudence clog up its conceptual and categorical apparatus, which, in turn, exacerbates the gap between legal science and practice; 7) Since the degree of practical implementation of scientific and legal research in legislative and law enforcement practice is too small, a more effective mechanism for analyzing and implementing specific proposals of legal scholars is needed.

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