

Volodina Svetlana Vyacheslavovna, No. 9 2017

**Law and order and revolutionary society in 1917:
political and legal aspects**

Annotation. The article, dedicated to the 100th anniversary of the revolution in Russia, examines the political and legal aspects of the transformations that have taken place. The relevance of the publication is determined by the need to analyze the mutual influence of the changing consciousness of society, the growth of legal literacy of the population, a negative assessment of law enforcement practice and the risks of revolutionary processes. The article attempts to substantiate the relationship between law and revolution. Can a revolution in general be within the legal framework and if these two categories are mutually exclusive, then why is the mutual influence between them so strong? The work also touches on the topic of society in times of political and legal upheavals, the mood of which is accompanied by a revolutionary upsurge and, as a rule, an inflated credit of trust, which directly has its own relationship with the accumulated fatigue from the old order. This construction: law, revolution, society, is considered by the author not only on the basis of the revolution in Russia in 1917, but also taking into account the rich foreign revolutionary practice.

Chedzhemov Sergey Ruslanovich , No. 9 2017

Formation of statehood and constitutionalism among the peoples of the south of Russia (1917 - 1937 on the example of the Ossetian people)

Resume: The article analyzes the historical path of the formation of statehood and constitutionalism among the peoples of the south of Russia after the October Revolution of 1917 on the example of the Ossetian backgammon. The author concludes that in the process of improving state and legal relations, the study of the history of the Russian state and law is of great scientific and practical

importance. The legal registration of the Ossetian statehood directly took place in 1936. The 1936 Constitution of the USSR raised the political and legal status of North Ossetia. This gradual transformation of statehood - the transformation of an autonomous region into an autonomous republic, and an autonomous republic into a union republic was generally characteristic of Soviet statehood in the 20-40s of the twentieth century.

Zhukova Elena Sergeevna, No. 9 2017

On the content of the cultural and educational function of the state

Annotation. This article is devoted to the main problems associated with the disclosure of the content of the cultural and educational function of the state, in relation to which the author comes to the conclusion about its inherent national element. The article analyzes the relationship between the content of the investigated function and the directions of the cultural policy of Russia, among which the author highlights the provision of cultural rights and freedoms of citizens, the development of the country's cultural potential, the preservation of cultural heritage, identity, accumulated knowledge, education of the individual and society. The influence of the cultural and educational function of the state on other spheres of state and public life is substantiated. The article reveals the legal and organizational foundations of the investigated function, substantiates the possibility of using new forms and methods of state regulation of culture. The author emphasizes that the state is not the only regulator of culture in society; the activities of civil society institutions and citizens' initiatives to participate in cultural life are of great importance.

Komarova Valentina Viktorovna, No. 9 2017

Constitutional system of power in Russia and the principle of separation of powers

Annotation. The article examines the problematic aspects of the constitutional system of power in Russia. Modernity requires the state to operate all elements of the constitutional system of power as a single mechanism focused on achieving constitutional values. In modern constitutional and legal science, there are different approaches to the study of the principle of "separation of powers" and different assessments of it. The controversy over the theory of separation of powers and its implementation has only intensified lately. Existing problems of the implementation of the system of checks and balances in the horizontal system of state power; the vertical system of public authority (government and local government); the not clearly constitutionally fixed system of power gives rise to bodies of power that are not part of the triad of powers, and, as a result, scientists propose to single out non-constitutional branches of power. The article provides an overview of scientific views on the content and content of the modern principle of separation of powers and the author's vision of the term "constitutional system of power".

Osavelyuk Alexey Mikhailovich, No. 9 2017

N ravovoe the state as the constitutional basis

Resume: The article examines one of the foundations of the constitutional system of Russia - the rule of law. The author defines the concept of the rule of law, and also reveals the content of the constitutional principles that underlie it.

Analysis of domestic and foreign legislation and scientific literature on the topic of the study made it possible to identify the main shortcomings in the existing definitions of this concept, and formulate specific proposals.

Naruto Svetlana Vasilievna No. 9 2017

E dinstvo and diversity of Russian federalism

Annotation. The article analyzes the features of the Russian federal state legal system. The author believes that the consolidation in Art. 5 of the Constitution of the Russian Federation, the equality of the subjects of the federation does not mean their equal status.

The peculiarities of the status of the subjects of the federation of various types, conditioned by the multinational composition of the population, geographic, geopolitical, economic and other factors, are investigated. It is concluded that unity in a federal state can only be a unity of diversity. An artificial desire to eliminate diversity inevitably leads to a distortion of the content side of federalism, impoverishes it. At the same time, significant differences, primarily in the socio-economic development of the subjects of the federation, are so critical that they entail negative processes in the social, demographic, cultural and other spheres of life.

The problem of delimiting the subjects of jurisdiction and powers in a federal state is analyzed. The author argues that the political and socio-economic situation in the country, as well as its international position, depends on how correctly the powers of power are distributed between the center and the regions. Modern federal relations are developing towards an excessive strengthening of the centralization of power, aimed at instilling unity in federal relations. This tendency is redundant, harmful from the standpoint of the orientation of the regions towards their own socio-economic development, towards the development of incentives for the regions to develop independently, to create points of economic growth for them.

Mityukov Mikhail Alekseevich, No. 9 2017

Discussions about the secular state at the constitutional meeting

Annotation. S.S. Alekseev, one of the creators of the "presidential" draft of the Constitution, submitted for discussion and revision at the 1993 Constitutional

Conference, outlined the essence of a secular state "as a civilized, non-religious, non-ideologized state." This formula was not shared by all the participants in the meeting. Some of them considered the idea of a secular state for "our society to be an empty sound," although many saw its relationship with a federal structure, and most importantly with a legal democratic state. A multi-vector approach to understanding the essence of a secular state, its content and, in general, the expediency of constitutional regulation caused very lively discussions at the meeting, especially between representatives of various political, as well as religious and non-religious views.

This article traces the controversy of the participants around the concepts of "secular state", "atheistic activity", "freedom of expression of atheistic opinions." Attention is drawn to the extent to which the participants in the Constitutional Conference, especially representatives of legal science and expert institutions, managed in this part to influence the transformation of the original text presented by the President of the Russian Federation.

Bulakov Oleg Nikolaevich , No. 9 2017

On the representative function of the Federation Council

Federal Assembly of the Russian Federation

Resume: The article examines the representative function of one of the chambers of the Federal Assembly of the Russian Federation - the Federation Council. The author reveals the characteristics of the principles underlying the concept of representation.

Analysis of the scientific literature on the topic of the research allowed us to identify the main shortcomings in the existing characteristics of this concept and formulate specific proposals. The author believes that the elections of members of the Federation Council fully comply with the constitutional principles of the Russian Federation.

Osetrov Sergey Anatolyevich, No. 9 2017

**Anti-corruption guarantees of constitutional principles
people's representation in the Russian Federation**

Annotation. The article discusses the issues of implementation of the institution of conflict of interest in deputy activities as a guarantee of the constitutional principles of people's representation. The author examines the consequences of a deputy's failure to fulfill his obligation to prevent conflicts of interest. The current legislation contains a number of contradictions regarding the establishment of sanctions for failure to prevent a conflict of interest. The article contains proposals for improving the procedure for terminating the powers of deputies in connection with the presence of a conflict of interest.

Bekmuradov Kemal Annamukhamedovich, No. 9 2017

**Meaning constitutional conciliation separation system
powers P U S S I A N F E D E R A T I O N**

Annotation. Under the condition of a clear separation of powers and compliance with the constitutional principles of "non-interference" in the competence of public authorities on the part of representatives of various branches of government, other circumstances arise that contribute to the emergence of prerequisites for the destabilization of the political situation and, as a consequence, a crisis of power. Even if there is a universal arbitrator containing signs of various branches of power, additional tools are required to maintain a balance of interests, which will prevent various attempts to take over a number of powers in violation of the constitutional principle of separation of powers in the Russian Federation into legislative, executive and judicial, as well as in the event of disputable situations, during the consideration of which their subjects fail to accurately and categorically declare the need to apply certain sanctions, they require those through which it is possible to achieve a balance of interests. Such a universal tool is conciliation

procedures that serve to eliminate contradictions, manage a conflict situation and, as a result, develop algorithms for the preventive elimination of disagreements.

Vasiliev Stanislav Alexandrovich, No. 9 2017

The relationship between man and state as subjects of constitutional law

Annotation. The relationship between a person and the state occupied the thinkers of any period as one of the key issues in the implementation of public power. Of course, the state itself had a different appearance at different times, changed the form of its structure, character, properties, which ultimately affected the person. It was from this that the concepts of the desired behavior of the public authorities grew to take into account their own interests and maintain a decent standard of living for an individual. The opinions of such scientists from different eras, mainly of foreign origin, as the author can do, are collected in this article. Their analysis helped to clarify the always approximately the same tendency of the doctrine to oppose the strengthening of state power, offering various ways to maximize the humanization of the ratio of the subjects under consideration. Constitutional law is the very modern branch of Russian law, which is aimed at regulating the relevant legal relations with the definition of key subjects and the links between them. However, an analysis of the ideas of the most prominent thinkers, starting from antiquity, in this area shows that the central subjects from time immemorial to this day are the state and the person.

Polyakov Maxim Mikhailovich , No. 9 2017

Administrative and legal regulation of anti-corruption in public administration

Resume: The article examines the administrative and legal aspects of combating corruption in the framework of state and administrative relations. The

author investigated the provisions of normative legal acts regulating the fight against corruption in the Russian Federation. The process of discussion and adoption of the draft law on combating corruption, as well as the draft fundamentals of legislation on anti-corruption policy, has been analyzed. The article analyzes the anti-corruption laws of some constituent entities of the Russian Federation. The author reviewed the provisions of anti-corruption by-laws and regulations, including the National Anti-Corruption Strategy and the current National Anti-Corruption Plan. In addition, the article presents anti-corruption legal acts of public administration of the Ministry of Internal Affairs of the Russian Federation, as well as analyzes the provisions of legal acts of the Department of Economic Policy and Development of the City of Moscow, directed against corruption.

Izvekov Stanislav Sergeevich , No. 9 2017

Criteria for delimiting the bankruptcy of an organization used for tax optimization or for tax evasion

Resume: The subject of this research is the interest rates stipulated by Article 75 of the Tax Code of the Russian Federation, as well as Articles 81, 95 and 126 of the Bankruptcy Law . The author analyzes the correlation between public law and private law interests in their application, as well as the priority use of the norms of the Bankruptcy Law against the Tax Code of the Russian Federation. The complex aspects of the research topic are the consequences of the modification of tax obligations, as a result of which the taxpayer does not fulfill the obligations to pay VAT and corporate income tax. Considering the economic effect of the relevant changes, the author draws attention to the lack of clear criteria for the border behavior of the taxpayer, the persons controlling him, as well as arbitration managers, testifying to the receipt of an unjustified tax benefit, optimization of the tax burden or tax evasion.

Methods of systemic and logical analysis , as well as generalization of normative material, were used as research methods . The choice of the topic

was dictated by the fact that the issues of calculating penalties under tax and civil legislation, their ratio, relate to a wide range of business entities, as well as fiscal authorities. Accordingly, a correct understanding of the legal nature of interest charged on tax and civil law, has extremely important practical significance. The author has formulated proposals for correcting Article 75 of the Tax Code of the Russian Federation, which allows one to overcome contradictions and apply the norms of bankruptcy legislation as a priority in relation to the norms of tax legislation. At the same time, tax benefits from the application of bankruptcy procedures cannot be considered properly regulated, preventing various actions bypassing the law.

Andryushchenko Angelina Valerievna, No. 9 2017

The history of the development of institutional agreements in civil law P RUSSIA

Annotation. The article analyzes the origin and course of the historical development of organizational agreements in Russia. There are four main stages in the development of organizational agreements. The first stage coincides with the pre-revolutionary period in the history of Russia and is characterized by the emergence and widespread distribution of organizational agreements. The first half of the 20th century coincides with the second stage in the development of organizational contracts, which was stagnant. The second half of the 20th century saw the third stage, marked by the continuation of the evolution of organizational agreements and characterized by a qualitative and quantitative leap in the progress of organizational agreements. The fourth stage in the development of organizational contracts coincides with the modern historical period. The article defines the signs of each of the stages, gives a characteristic of the organizational agreements arising from them. The work examines the role that organizational agreements play in the modern period. It is concluded that organizational contracts are a way to meet the organizational needs of participants in civil turnover, a tool for planning their

future activities by subjects of civil law, as well as a determining factor in the development of legislation in the field of organizing interaction between participants in civil turnover.

Petrakov Andrey Yurievich , No. 9 2017

State control over the residents of the territories of advancing socio-economic development in the P U S S I A N F E D E R A T I O N

Annotation. The article examines the features of state control in relation to residents of territories of advanced socio-economic development , consisting in reducing the timing of scheduled and unscheduled inspections, creating special units of federal executive authorities and territorial bodies of the Social Insurance Fund of Russia. The rights of residents during inspections and their responsibility for failure to comply with the order to eliminate violations are highlighted. The article concludes that state control over residents of territories of advanced socio-economic development is classified as special control.

Kabyshev Sergey Vladimirovich , No. 9 2017

Intellectual property in the system of the constitutional order : a comparative analysis

Resume: This article , using a comparative analysis of the development of the legal institution of intellectual property, examines the current trends in the constitutional and legal protection of intellectual property . It is concluded that n Parts Required to ensure the rights of citizens, national security, creating and The innovative economy is determined by t the constitutional development of the global trends, one of which is the constitutionalization of the legal institution of intellectual property . There are two main ways of constitutionalization : legislative and interpretive .

The subjective constitutional right to intellectual property fulfills a special “social function”, which is to ensure an optimal balance between private and public interests.

By onstitutsionalizatsiya is a global trend of development of modern states and is expressed in the universalization and intensify the impact of the constitutional values at institutions of different legal systems, which significantly contributes to their convergence. It is concluded that intellectual property is part of the basic constitutional principles of many foreign states . Therefore, among the foundations of the constitutional system , a new principle should be highlighted related to the development of intellectual property relations, including their stimulation, encouragement, guarantee and support in order to achieve economic and social progress of society , aimed at building an innovative (based on the knowledge economy) state.

Abdullina Elvina Ildarovna , No. 9 2017

Legal aspects of the creation and use of complex intellectual property rights in virtual reality

Annotation. Legal regulation of relations arising from the creation and subsequent use of objects in the digital environment is one of the most pressing issues in modern legal science and practice. The legal qualification of objects developed using computer technology is debatable in the legal literature. In particular, this applies to objects created in the so-called virtual reality.

This article is devoted to the analysis of a number of issues related to both the development and operation of complex intellectual property rights using computer technology. The author analyzes the concept of virtual reality, considers the issues that arise regarding the qualification and use of those objects that are created in this area (including with SaaS and API technologies). The article concludes that it is

necessary to develop mechanisms for the disposal of intellectual rights, taking into account the development of modern computer technologies.

Mironova Tamara Karlovna, No. 9 2017

Innovations in the conceptual apparatus of social security law and their impact on the subject of the industry

Annotation . The article examines two vectors of innovations in the conceptual apparatus of social security law on the basis of an approach that determines the relationship between the conceptual apparatus and the sectoral subject of legal regulation . One vector of innovations is the unjustified borrowing of terms and concepts of civil law, the application of the form of the contract without specifying its socially determined industry specificity. This leads to an unjustified recognition of private law principles in the regulation of social security relations. Within the framework of social security relations, the contract is used as a tool for determining the volume of social services provided to citizens free of charge. There are no objective grounds for a broader understanding of the branch subject and the consolidation of private law elements in it. Relations that go beyond the framework of public law beginnings should be associated not with the subject of social security law, but with the sphere of social protection. The subject area of the social protection system can include both public law and private law components. Another vector of innovations is the normative consolidation of new terms and concepts that are not consistent with legal definitions and terminology. As a result, vertical (hierarchical) and horizontal (one-level) relationships are violated within the sectoral concept series. Key industry terms and concepts act as indicators of the subject area of legal regulation. The formation of an interconnected system of concepts makes it possible to more accurately determine the range of social relations that make up the subject of social security law.

Klimenko Yuri Alexandrovich , No. 9 2017

Failure to report a crime (Article 205⁶ of the Criminal Code of the Russian Federation): legal nature, correlation with concealment and complicity in terrorism

Annotation. The article examines the norm of Article 205⁶ of the Criminal Code of the Russian Federation “Failure to report a crime”. The signs of corpus delicti are analyzed. It is established that the crime infringes on two objects: public safety and justice. The objective side includes action in the form of inaction. The subjective side is characterized by guilt in the form of direct intent. The legal nature of the crime has been revealed. Failure to report a crime belongs to the sub-institute “involvement in a crime” within the framework of the institute “plurality of persons in a crime”. Issues have been resolved on the delimitation of a crime with a related norm on concealing especially grave crimes (Article 316 of the Criminal Code of the Russian Federation), as well as on qualifications in cases where failure to report is associated with complicity in terrorism. It is concluded that the previously promised failure to report a terrorist act constitutes complicity in a crime subject to qualification under Part 3 of Article 205¹ of the Criminal Code of the Russian Federation. The author comes to the conclusion that failure to report crimes not specified in the disposition of Article 205⁶ of the Criminal Code of the Russian Federation does not pose a public danger and does not entail criminal liability.

Prokhorenko Dmitry Vladimirovich , No. 9 2017

**Illegal business income :
interpretation problems**

Annotation. This article touches upon the problem of defining the essence of the term "income" from illegal entrepreneurial activity. The relevant law enforcement practice of the Supreme Court of the Russian Federation is analyzed, problematic aspects of the interpretation of certain provisions of Art. 171 of the

Criminal Code of the Russian Federation. On the basis of the conducted research, the author comes to the conclusion that it is necessary to establish normatively the definition of income from illegal entrepreneurship in the footnote to the above article of the criminal law.

Sergey Kupreychenko, No. 9 2017

Conflicting interests of the attorney-defender's principals in criminal proceedings. Concept, consequences, problems of establishment and procedural response

Annotation. The article is devoted to the study of various issues of the conflict of interests between the client of a lawyer-defender in the criminal process and his other client, who can be either another client of the lawyer or other clients of the lawyer, to whom he provides or previously provided legal assistance in any form. The work examines the legal essence of the conflict of interests of the principals, and also substantiates the relationship of the conflict of interests between the attorney's clients and the conflict of interests of the lawyer with his client. It has been established that one of the consequences of the conflict of interests of the attorney's clients is the conflict of interests between the attorney and his client, incl. and the client. A distinction is made between such concepts as conflict of interests and contradiction of interests. The main problems of the procedural response to the conflict of interests of the attorney-defender's principals in the criminal process are investigated; and in order to comply with the lawyer's secrecy regime and the proper performance of other duties of a defense lawyer. The basic conditions for the legality of the decision to disqualify a defense attorney from defense in criminal proceedings have been determined.

Korma Vasily Dmitrievich,

Mironova Elena A. natolievna,

Obraztsov Viktor Alexandrovich , No. 9 2017

Theoretical and applied aspects of the forensic doctrine of investigative recognition

Annotation . The article is devoted to topical problems of the doctrine of investigative recognition that is emerging in forensic science. Discussion issues concerning the essence, purpose, object, limits and other components of the said teaching are considered. Based on the results of the study, it was concluded that the term "investigative recognition" can be considered from several points of view. Investigative recognition, in particular, can be understood as the form and direction of the cognitive activity of the investigator in the field of pre-trial criminal proceedings. Investigative recognition can also be defined as a set of tasks, methods, means, technologies and procedural actions that are adequate to the situation, implemented in the mode of procedural evidence in order to understand the signs of criminal-relevant objects observed by the investigator that are not perceived by the senses, as well as signs of criminal-relevant objects that he does not observe, by comparative analysis of actual and model information and the use of existing knowledge about other features and objects, naturally related to the first. In addition, investigative recognition can be considered as an emerging private forensic doctrine about the laws of the mechanism, principles, methods, means and technologies of cognition of criminal-relevant objects unobservable by the investigator, as well as sensually imperceptible signs of the criminally-relevant objects observed by him.

Verenikina Nadezhda Aleksandrovna , No. 9 2017

Profiling as a means of detecting and investigating crimes

Annotation. The article discusses the prospects for the introduction of forensic profiling in the activities of the internal affairs bodies for the disclosure and investigation of crimes.

The author indicates the main directions of using profiling in law enforcement, considers the positive experience of using certain methods of forensic profiling, and also makes proposals for improving the information retrieval system of the Ministry of Internal Affairs of the Russian Federation.

The scientific novelty of the research lies in an integrated approach to reviewing profiling techniques and offering recommendations for their application in the activities of law enforcement agencies.

The practical significance of the study lies in the possibility of using its results in further theoretical works devoted to the problems of using profiling in law enforcement; as an element in the formation of an educational and methodological complex for a specialized special course in educational institutions of the Ministry of Internal Affairs of Russia; when carrying out operational-search activities; when conducting investigative and procedural actions; when implementing preventive measures carried out by the internal affairs bodies in relation to persons subject to preventive exposure, in accordance with the regulatory legal acts of the Russian Federation; in order to improve the information resources of the Ministry of Internal Affairs of the Russian Federation.

Drozdov Alexey Igorevich,

Yavorsky Maxim Alexandrovich, No. 9 2017

**Employment of convicts as a means
their deradicalization**

Annotation. The article discusses issues related to the search for optimal means and methods to eliminate or minimize the causes of the spread of radical ideologies in places of detention, both in Russia and abroad. The article analyzes domestic and foreign scientific literature devoted to the problems of the spread of radical ideas in correctional institutions. The factors of radicalization of convicts in places of deprivation of liberty are considered, which are divided into two criteria: 1) independent of the characteristics and specifics of the functioning of penitentiary

institutions (external); 2) related to the organization of the activities of correctional institutions (internal). It was revealed that, among the internal factors, radicalization of prisoners, it is necessary to highlight the ineffective organization of their employment and vocational training. The practice of recruiting convicts to work in prison in Russia and a number of foreign countries is presented, with examples of the effective application of programs for deradicalization of prisoners, the main element of which is their involvement in labor. Conclusions are made about the importance of bringing convicts to labor to imprisonment for the success of the process of their deradicalization.

Karaskina Marina Sergeevna , No. 9 2017

Review of the International Scientific and Practical Conference

"Actual problems of civil procedural law" , dedicated to the 80th anniversary of the birth of Doctor of Law, Professor, Honored Scientist of the Russian Federation

Alexander Timofeevich Bonner

Annotation. The article reviews the speeches and scientific reports of the participants of the International Scientific and Practical Conference "Actual Problems of Civil Procedure Law", dedicated to the 80th anniversary of the birth of Doctor of Law, Professor, Honored Scientist of the Russian Federation A.T. Bonner, held on June 9, 2017 at the Moscow State Law University named after O.E. Kutafina (Moscow State Law Academy).