Isaev Igor Andreevich

Sovereignty: A Space of Alienation and Power

No. 5, 2016

The article touches upon the basic issues of legal theory - the ratio of sovereignty as a status and sovereignty as a quality and property of legal reality. The characteristics of legal sovereignty are compared with the features of such a political form as an absolute monarchy, for which sovereignty was the determining factor and style. The authoritarianism generated by sovereignty is closely related to the problems of domination and subordination. The author analyzes such a concept as the "aesthetic state", born in the Renaissance and transformed in the process of the development of sovereignty and absolute monarchy. Of particular importance in the analysis of the problem is also such a category as "individual law" used in determining sovereignty and sovereignty. The intersection of legal, cultural, psychological elements makes it possible to more fully reveal the most important aspects of the problem. Sovereignty as a special legal status can be expressed collectively or individually. Sovereignty is not the same as dictatorship, although it includes an element of domination. A dictatorship presupposes the urgency of its existence and a situation of emergency, sovereignty claims to be eternal or at least long-term. Sovereignty does not coincide with sovereignty, this latter is characterized by an orientation towards a state of freedom and self-determination, sovereignty always gravitates from Hegelunia . The "masks" of sovereignty are diverse, but its essence remains indispensable. Sovereignty creates a space of inviolability and requires the concentration of power in one center. The institution of representation is secondary to him. Political attention is focused on a single subject of power. Subjectivity is the defining feature of sovereignty. Monarchical and republican forms are amorphous and undefined enough to be directly and unambiguously associated with the concept of sovereignty. As for the legal sphere, sovereignty, itself being a product of the legal, forms norms and institutions that affect the contexts surrounding it. Characteristic is the exclusivity due to subjectivism, which is

characteristic of sovereign rule-making. The constituent legislation of the sovereign characterizes the activities of both the collective and the individual sovereign. The history of monarchies and republics is largely similar precisely because of these properties of sovereign existence.

Baev Valery Grigorievich

Kramskoy Vadim Vladimirovich

IN THE SHADOW OF THE LAW (NEW BOOK BY PROFESSOR I. A. ISAEV " THE SHADOW SIDE OF THE LAW. IRRATIONAL IN THE LAW". M .: PROSPECT, 2015. - 368 p.)

No. 5, 2016

The article represents the authors' critical notes on the margins of a book devoted to the study of legal education issues through the prism of the transcendental categories of "myth", "mysticism", "magic". They, according to Professor I.A. Isaev, largely predetermined the course of the formation and development of European law and the corresponding political and legal ideas. The title of the scientific work - "the shadow side of the law" - makes one think that the author of the monograph intends to devote the reader to the intricacies of the undercover struggle of interests to defend the values of this or that financial and industrial group by law. However, the essence of the book comes down to finding answers to the questions: "Is there the quintessence of law?" “Is its nature dependent on the spirit of the times?”; “Where does the law originate and what is limited?”; “What determines the emergence of the right?”; “What is its shape?”; “By means of what the law influences the course of development of the processes of objective reality?”. The monograph calls for upholding the viability of natural law theory and a view of law from an irrational point of view. The use of the word “irrational” in the title of the book is natural, since the author's reasoning about the centrifugal force of the legal formation process is in line with the study of the influence of myth, mysticism and magic on him. A priori, it is impossible to

accept all the provisions of the peer-reviewed scientific work, just as it is difficult not to note its positive aspects.

Among the primary advantages of the study, it is necessary to include the novelty of the problem being raised and resolved - the problem of the ratio of the rational and the elements in law that are beyond the scope of explanation, which seems to be not an idle occupation, but helps to show the immanent connections of law with the worldview of society at a certain stage of its development. After all, individual elements of both mythological and magical-mystical perception of the world from the distant past are carried away by the wind of history to the present day and find their manifestation in various legal families.

Syrykh Vladimir Mikhailovich

Objective foundations of public law

No. 5, 2016

Public law, being an independent component of the legal system, is characterized by the original composition of the objective basis. Its main components are such phenomena as public interest, public goal-setting, public law policy, public law activity (practice) and common goods . The author substantiates the legitimacy of understanding the objective public interest as the interest of society, focused on the optimal results of its development through the concentration of the productive forces of society, its material and spiritual means. The ultimate goal of the public interest is not only and not so much in the production of goods as in their distribution on a fair, social basis. In modern conditions, fair distribution is understood as the use of common goods on a communist basis, according to need (general education, urban infrastructure, natural environment, etc.) or to a measure consistent with the contribution made by each subject to the formation of common goods. The process of realizing public interest begins with goal-setting, i.e. determination by society and the state of the current and future goals of their substantive and practical activities. The tree of

goals of public law has a multistage nature and includes the goals of law in general, its own goals, goals of the main types of legal activity: lawmaking, law enforcement and human rights activities , etc. The second stage is reduced to policy development, i.e. determining the measures that need to be implemented by society and the state in order to ensure the successful implementation of the public interest. At the same time, politics, as a process of rational mental activity, does not coincide with practical objective activity. The latter is an independent phenomenon, a direct real life aimed at the implementation of political measures. The end result of objective activity is expressed in changes in society and the state in accordance with the perceived public interest and the formation of a system of common material and spiritual benefits. The state, wishing to use the common goods as fully as possible in order to ensure sustainable law and order and the material well-being of individuals, is forced to carry out complex and diverse activities to organize the production of these goods, their distribution, protection and protection . This activity, its results and emerging legal relations in their totality, the system form a single subject of public law.

Demchenko Tamila Ivanovna

DIALECTICS AND POLITICS OF WAR

No. 5, 2016

The real situation testifies to the fact that war in its various manifestations at all times , and today is even more widely used to resolve national, interstate, global issues. In many countries, it has become the basis of their existence. This actualizes the problem of war, understanding its meaning.

War is a most complex phenomenon, which has its own philosophy, designed to answer questions about the dialectical essence and meaning of war, struggle; a theory dealing with the development of the causes, types of war, victories and defeats, its strategy, tactics; practice related to the art of warfare.

War is associated with politics, often waged with the use of the armed forces, but it is not limited to them. A one-sided analysis of war, a negative assessment of it narrows the view of the problem of war, leads away from understanding its essence, does not allow understanding the metaphysical, historical and civilizational meaning of this phenomenon.

War, along with other factors, shaped human civilization. Many wars have done a historic service to humanity. The accomplishment of Byzantine campaigns by the ancient Russian princes introduced Ancient Russia to Christianity. The struggle of medieval Russia with civil strife, with the Tatar-Mongols, with Lithuania, Poland contributed to the gathering of Russian lands, the creation of a single, centralized strong state. After the Great Patriotic War 1941-1945. The Soviet Union acquired the status of a great power.

War can be expressed in ideological, religious, political, economic, biological and other forms. It can be represented by psychological influence, forceful intimidation, "cold" war and other methods not directly related to military operations.

The views of thinkers and real history indicate that peace (in the sense of the absence of war) should not be characterized only in a positive sense, and war cannot be viewed as an absolute evil and a purely external accident, having a basis in what should not be, Hegel said.

War and peace are the logos of being, the universal (cosmic) law, the law of the existence of the world and the measure of everything. They, like everything else in the world around them, are subject to the laws of dialectics. War is a manifestation of a universal collision of the principles of divine, cosmic, natural, social life. Therefore, the attitude to war, which, according to Heraclitus, is eternal, and to the eternal, according to Kant, peace, possible under certain conditions, can only be antinomic.

Logically, they can be condemned and justified. War is a guilty act for struggle, competition, conflict, for democratic progress. And at the same time, it serves as an excuse for guilt for eternal peace, stagnation and decay, leading to

destruction. The task of politics is to foresee the social consequences of each of the opposites, to make appropriate decisions in a timely manner and take practical actions.

Dudikov Mikhail Vladimirovich

DEFINITION AND TYPES OF LEGAL SUPPORT OF PUBLIC INTERESTS WHEN USE

No. 5, 2016

The article formulates the definition of the concept of "legal support of public interests in mining law", by which it is advisable to understand the rights and obligations of the subjects of relations in relation to subsoil, subsoil plots, waste, enshrined in regulatory legal acts, as well as in non-regulatory acts of state authorities achievement of public goals in the field of rational use of subsoil, environmental protection in subsoil use, development of socio-economic infrastructure.

The definition of the concept of "measures of legal support of public interests" in the use of subsoil is presented. A classification of measures of legal support of public interests in the process of subsoil use is proposed.

Plotnikov Alexander Ivanovich

COMPLIANCE IN THE SYSTEM OF CRIMES CHARACTERIZED BY THE CONTRACT OF CRIMINALS

No. 5, 2016

Complicity is the most vulnerable link in the system of criminal law norms. Its practical application is characterized by contradictions, and scientific research by fundamental discrepancies. The author shows the main reason that served as a "bone of contention" among specialists. According to the author, it is the discrepancy between the traditional subdivision of complicity into performers, organizers and instigators with modern ideas about joint activities, recognized in

the law as a constructive sign of complicity. According to the data of psychological science, compatibility involves the conscious interaction of several persons, limited by the place and time of its implementation. The aforementioned traditional forms of complicity do not possess such properties, since they are scattered independent actions. As a result of the imposition of these contradictory ideas and the legislative provisions reflecting them, the practical application of the rules on complicity results in a contradictory and, to a certain extent, arbitrary assessment of the same acts either as group crimes with an obvious sign of compatibility (actually complicity) or as complex complicity (traditional), which predetermines their different responsibilities and punishability. Since the legislative formula of complicity requires the joint actions of the accomplices, the traditional forms of complicity are either artificially adjusted to it, or indeed joint actions are extended to the same extent to the limits of traditional forms, creating confusion in qualifications, and as a result, lead to law enforcement improvisations and violations of the principles of legality and fairness in resolving issues of responsibility of accomplices. In the author's opinion , the existing situation can be eliminated by separating traditional forms of complicity into a separate group of norms, called involvement in a crime, as having no sign of compatibility. The latter correspond to group crimes requiring special qualifications, responsibility and punishment. For the same purposes, it is proposed to streamline the entire system of norms related, as well as complicity, with the facts of a confluence of criminals in connection with the commission of one crime, subdividing it according to the degree of connection between objective and subjective signs into: 1) careless complicity ; 2) involvement in a crime; 3) complicity in a crime; 4) involvement in the crime. This proposal, as the author believes, will allow to eliminate the existing contradictions in the institution of complicity, to systematize the criminal law norms on the confluence of criminals on the basis of danger, the phenomena reflected by them, and, accordingly, to facilitate the qualification of these types of crime, thereby contributing to the implementation of the principles

of criminal law and the effectiveness of its application. ... Drafts of the corresponding norms are given.

Karpov Mikhail Valerievich

NATIONALIZATION: TRENDS IN THE DEVELOPMENT OF DOCTRINE AND LEGISLATION

No. 5, 2016

The article examines the usually distinguished features of nationalization, including the goals, grounds, objects of nationalization, the compensatory and derivative nature of this basis for the termination of private property rights, the admissibility of challenging the decision on nationalization. It is shown that these signs are understood differently in the modern civil law doctrine (V.A.Belov, E.P. Gubin, V.D.Mazaev, L.V. Shchennikova , etc.), and sometimes they are only called without the necessary clarification. The analysis of the current legislation is given, including the acts adopted by the State Council of the Republic of Crimea in 2014. Attention is also paid to the bills submitted to the State Duma of the Russian Federation, designed to regulate relations on nationalization. Although, according to the author, most of the proposed projects had significant shortcomings, their analysis is of interest for studying the construction of nationalization, including different approaches to the grounds and procedure for the seizure of property. A more detailed study was made of the draft Federal Law "On the Protection of the Rights of Owners of Real Estate when Turning into Federal Property for the Needs of the Russian Federation of Real Estate", developed by the Ministry of Economic Development of the Russian Federation in 2014. In conclusion, the author concludes that all the bills proposed in recent years on nationalization (including those who do not directly indicate this term) to one degree or another pose a threat to the rights and interests of the owners; expresses the idea that the overwhelming number of needs of public law entities in the property of private individuals should be resolved through the institution of procurement (if we are talking about movable

things), and if there is a need for immovable things, by establishing easements, "neighbor rights" without termination of the right property. With the use of requisition, one can agree only in exceptional cases when a state of emergency is introduced, and the construction of nationalization should be abandoned.

Plokhova Valentina Ivanovna

INTERPRETATION OF SIGNS OF SMUGGLING

No. 5, 2016

The article substantiates the provisions that the termination of the Eurasian community does not mean complete decriminalization, the loss of the force of both commodity and smuggling of restricted items; not every action included in the concept of drug trafficking requires cumulative qualifications. For this, the theory of translation of life phenomena into the norm of criminal law is used, from which it follows that the definition of a concept is the main one in the chain "word - term - concept - definition of a concept", since it reflects the essence of the crime.

The paper shows the transformation of the regulatory legislation of the Eurasian Economic Community into the legislation of the Eurasian Economic Union, from which it follows that the regulatory framework of the Eurasian Economic Community has been transformed into the regulatory framework of the Eurasian Economic Union, the EAEU. In this regard, the definition of some concepts with a different designation (words, terms) remained the same; others have changed, although the designation has remained the same; still others, both have changed. The possibility of changing a criminal law prohibition by means of changes in the normative acts with which it is associated is recognized by the Constitutional Court of the Russian Federation, generally recognized principles and norms of international law, in the legal literature; is substantiated by intersectoral relations of the criminal law, systemic interpretation of the norms of criminal law. Therefore, the rules, the dispositions of which indicate movement across the Customs border within the EurAsEC (Article 194 of the Criminal Code

of the Russian Federation, in relation to certain items - Articles 2261, 2291) should be interpreted as movement across the customs border of the Customs Union. However, it is necessary to resolve many issues. The article proposes a solution to some of them. The indication in the dispositions of articles providing for criminal liability for smuggling restricted items to the State Border of the Russian Federation is due to international treaties signed by Russia (other regulatory legislation). Carrying, storing, transporting, sending one batch to the border and moving it across the border form a single crime that ends from the moment the final goal is achieved: to consume, sell, etc., therefore, do not require qualifications in aggregate.

Klimenko Yuri Alexandrovich

Classification of complicity: forms, types, significance for the criminal-legal assessment of a crime

№5, 2016 g of .

The article is devoted to the classification of complicity into forms and types, as well as its criminal legal significance. The paper considers the main points of view that have developed in the science of criminal law on the problem of classification of complicity. The criteria used in doctrine and jurisprudence to classify complicity into forms are identified. The definition of the concept "form of complicity" has been formulated. The norms of the institution of complicity under the current Russian criminal legislation have been investigated and the author's classification into forms and types of all possible variants of the joint commission of a crime has been given. There are five forms of complicity provided by the General part of the Criminal Code of the Russian Federation: 1) complicity with the distribution of roles; 2) a group of persons; 3) a group of persons by prior agreement; 4) an organized group; 5) criminal community (criminal organization). Also, ten types of complicity are identified, enshrined in the Special Part of the Criminal Code of the Russian Federation. Five types of organized

group: 1) terrorist organization (Art. 2055 of the Criminal Code of the Russian Federation); 2) an illegal armed formation (Article 208 of the Criminal Code of the Russian Federation); 3) a gang (Article 209 of the Criminal Code of the Russian Federation); 4) a non-profit organization that infringes upon the personality and rights of citizens (Article 239 of the Criminal Code of the Russian Federation); 5) an extremist organization (Article 2822 of the Criminal Code of the Russian Federation). Five types of criminal community: 1) terrorist community (Article 2054 of the Criminal Code of the Russian Federation); 2) a structured organized group (part 1 of article 210 of the Criminal Code of the Russian Federation); 3) unification of organized groups (part 1 of article 210 of the Criminal Code of the Russian Federation); 4) a meeting of organizers, leaders (leaders) or other representatives of organized groups (part 1 of article 210 of the Criminal Code of the Russian Federation); 5) extremist community (Art.2821 of the Criminal Code of the Russian Federation). The article examines the shortcomings of the norms of the criminal law on the qualification of complicity and the judicial practice of their application. Explained by the highest court on the imposition of punishment in cases of complicity. The author analyzes the importance of the author's classification for the criminal-legal assessment of a crime, including for the qualification of crimes committed with complicity, and for imposing punishment for a crime committed with complicity. The author has made proposals for changing the norms of the Criminal Code of the Russian Federation, designed to clarify the rules for qualifying group crimes. Also, proposals were made to improve the clarifications of the Supreme Court of the Russian Federation, dedicated to the interpretation of the norms on the imposition of punishment for group crimes, in order to equitably individualize the punishment of accomplices.

Krivoruchko Alexander Vladimirovich

DECENTRALIZATION OF GOVERNANCE IN BRITISH INDIA AND DEVELOPMENT OF PUBLIC SERVICES IN THE BEGINNING OF THE XX CENTURY

No. 5, 2016

At the beginning of the twentieth century, British colonial authorities continued their attempts to decentralize the administration and financial system of British India by granting large administrative and financial powers to the provincial governments, which required the delineation of competence and funding of the government of British India and the provincial governments. India's Governor General Curzon tried to overcome the shortcomings of the Ripon scheme and introduced a quasi- permanent scheme based on three principles. The main idea of the scheme was to increase the interest of the provinces in increasing their income. The lack of success in reform led to the appointment by Edward VII in September 1907 of the "Royal Commission for the Decentralization of India", which was to study the situation on the ground and make proposals. In February 1909, the Commission presented a report in which it reflected the arguments both in favor of centralization of government and in favor of decentralization. In order to strengthen decentralization, measures were proposed to increase the powers of the provincial governments and the authorities of their subordinate administrative-territorial units, on a wide range of issues in the management of public services, primarily the "provincial" and "subordinate" parts of the Indian Civil Service, the police, as well as the medical, sanitary, etc. Particular emphasis was placed on the need to develop throughout India, especially in rural areas, local governments. The Panchayats played the most important role among them. Provided for the creation of self-government at the district level and at the lowest level - a village or a group of villages. Accordingly, it was proposed to redistribute competences between different levels of government and self-government. To implement the transformations, the commission recommended to redistribute the sources of funding for the authorities at each level and specified specific taxes in sufficient detail. Situations were also mentioned where the income

would not cover the expenses of the provinces, districts or villages. The report also spoke about the need for changes in the structure of expenditures of bodies at different levels. The article provides measures to implement the recommendations of the Commission, assess its activities by a number of researchers and sources, and draws brief conclusions.

Nakvakina Ekaterina Vladimirovna

Alexey Salomatin

THE EUROPEAN COURT AND THE PROBLEM OF PERCEPTION OF STATE SOVEREIGNTY: THE COMPARATIVIST DIMENSION

No. 5, 2016

The European Court of Justice, created in the early 1950s, has significantly expanded its powers. The main factor in the expansion of European law was the appeal of national courts to the European court for clarifications (in 1993-2009 there were from 200 to 300 preliminary requests per year, since 2010 their number has grown to 400 and even exceeded this figure, which, however, did not so many for three dozen member countries). The court recognized the emergence of a system of European law and the 1960s. (cases Van Gend en Loos v. Nederlandse Administratie der Belastingen ; C osta v. ENEL; International Handelsgesellschaft). He established the principle of free movement of goods and services in the 1970s. Such solutions as Dassonville , Cassis de Dijon, Omega were especially famous . In the 1990s, the Court gave even more attention to humanitarian issues. However, not all decisions of the judiciary are state-oriented. Basically, state interests are not taken into account in two categories of cases: 1) those related to interference in the competence of the member states under the pretext of protecting the fundamental principles of European law and 2) those related to the broad interpretation of EU citizenship. These areas of life are especially controversial for certain states, national budgets and sovereignty (potentially causing concern in the future as artificially stimulating immigration is the case

of Gerardo Riuz Zambrano v. Office national de l'emploi). Likewise, there are cases of labor disputes that infringe on the rights of trade unions (note the Viking Line cases ; Laval). Sometimes certain states, politicians and lawyers are outraged by judicial expansion. National courts rarely show open dissatisfaction with the decisions of the European court, but apparently refrain from making prejudicial inquiries en masse. European public opinion has less and less confidence in the European Court of Justice. This is especially true for Greece, Spain, Italy, Portugal, Great Britain, Cyprus (the level of trust is only about 30-35% or less).

Gong Bing

RUSSIAN AND CHINESE LEGISLATION ON PROPERTY DECLARATION: SIMILARITY AND DIFFERENCE

No. 5, 2016

In Russia and China, the declaration of property is an important link in the anti-corruption system, however, based on different political systems, different economic bases, historical culture and social environment, countries have formed different structures. The search for common features in the declaration of property of these states, the analysis of differences in them, the use of positive experience are of important current value. The direction of development of the Chinese property declaration system should be such that it evolves from internal party legislation to state legislation; the system model should move from a single control mode within the system to a corresponding open mode of multiple public administration, its functional goals of the system should be transformed from identifying corrupt elements to preventing conflicts of interest; the logic of the values of creating a system must transform from being limited by the sole requirement of declaration to a balanced combination of binding obligations and providing legal assistance.

Volkonskaya Ekaterina Konstantinovna

RECURRENCE OF VIOLENT CRIMES: A SOCIOLOGICAL STUDY

No. 5, 216

The article is devoted to a sociological study of the recurrence of violent crime. The separation of this type of recidivism into an independent one is based on a special characteristic of the subject of the crime - the commission of a crime by him earlier, for which measures of state influence were applied to him. In this regard, it seems expedient to conduct a criminological study of the recidivism of violent crimes through the personality of the offender. Convicts serving their sentences in places of deprivation of liberty again became the category of persons subjected to the study. According to specially developed programs, the collection, generalization and analysis of information from the personal files of 13 850 convicts (13 659 men and 191 women), as well as a questionnaire survey of 953 convicts (800 men and 153 women) and analysis of the results were carried out.

The article presents the main results of the study, which form the basis of the criminological characteristics of the recurrence of violent crimes. Violent recidivists of men in 44.7% of cases of crimes pursued the goal of extracting material benefits, in 12.6% of cases - to protect their life or health, in 10.6% of cases - revenge, in 7.1% of cases - jealousy, etc. Violent recidivists of women in only 16% of cases of crimes pursued the goal of extracting material benefits, in 46.9% of cases - to protect their life and health, in 11.1% of cases - revenge, in 11.1% of cases - jealousy, etc.

Bokhan Andrey Petrovich

Petrasheva Natalia Valerievna

Complicity in a careless crime: a myth or a reality?

No. 5, 2016

The article provides an analysis of the main doctrinal provisions on "careless obedience ". The study of this issue allowed the authors to assert that the concept of "careless complicity" does not coincide with the concept of "careless complicity "; the difference between them is that careless complicity is possible with the distribution of roles, in which the activities of some of the persons involved are not related to direct harm, but creates conditions for such harm and, accordingly, is in causal and culpable relationship with them. Negligence characterizes the situation of co- execution in a reckless crime, i.e. a reckless crime is committed, in which the actions of each of the jointly acting persons have a common corpus delicti. This conclusion is made on the basis of an analysis of monographic studies on this issue.

As part of the reform of the criminal legislation, Federal Law of February 3, 2014 No. 15-FZ Art. 263.1 of the Criminal Code of the Russian Federation is set out in a new edition (entered into force on June 5, 2014). Indication in parts 3 and 4 of Art. 2631 of the Criminal Code of the Russian Federation for the commission of this crime by a group of persons by prior conspiracy and by an organized group, according to the authors, is subject to exclusion from the Criminal Code as contrary to Art. 32 of the Criminal Code of the Russian Federation.

When constructing a criminal law norm, the final social effect is always manifested, which society and the state intend to obtain as a result of its directed influence on social processes. In an effort to achieve the set goal, the legislator does not always pay attention to details, takes into account the fact that all the institutions of law, all the norms that form these institutions are closely interconnected, therefore, amendments to the criminal law should take place taking into account the already functioning system. Based on the legislative definition of complicity in a crime, the authors state that complicity in a careless crime is impossible.

Starostin Sergey Alekseevich

DISCIPLINARY RESPONSIBILITY OF JUDGES

No. 5, 2016

The review provides a detailed analysis of the draft resolution of the Plenum of the Supreme Court of the Russian Federation "On judicial practice in the application of legislation regulating the issues of disciplinary responsibility of judges", identifies the main tasks set for the creation of the project, examines the general direction and specifics. The purpose of creation is considered in more detail, which consists in protecting the rights and legitimate interests of a judge in the event of their violation through the application of disciplinary measures to him; the strengths and weaknesses of the project are highlighted, the legal technique is assessed, the conceptual apparatus and formulations used to create the provisions of the project are investigated .

The paper shows the shortcomings of the draft of this resolution, and highlights both systemic and private, existing within the framework of certain provisions of the project; various ways of their elimination are proposed.

The draft resolution of the Plenum of the Supreme Court of the Russian Federation "On judicial practice of the application of legislation governing the disciplinary responsibility of judges" will replace the resolution of the Plenum of the Supreme Court of the Russian Federation of May 31, 2007 No. 27 (as amended on May 20, 2010), therefore, the review contains them comparative analysis.

Golik Yuri Vladimirovich

Gracheva Yulia Viktorovna

PUNISHMENT AS A MORAL, PHILOSOPHICAL AND LEGAL CATEGORY

(Materials of the round table dedicated to the discussion of works on topical problems of punishment of Doctor of Law, Professor, Honored Lawyer of the Republic of Azerbaijan Ilgam Mammadgasan-oglu Rahimov)

No. 5, 2016

The review reveals the materials of a round table held on March 9, 2016 at the Academy of the Investigative Committee of the Russian Federation, at which the monographs of Professor I.M. Ragimov "Crime and Punishment" (M., 2012), "Philosophy of Crime and Punishment" (St. Petersburg, 2015), "On the Morality of Punishment" (St. Petersburg, 2016). However, the conversation was not limited to an analysis of only these studies, but went far beyond the scope of publications, which is quite explainable by the significance of the problem. For several centuries, scientists have been struggling to resolve a number of issues: the right to punishment, the essence and content of punishment, the goals and functions of punishment, the means of their implementation, etc. Therefore, the discussion on many issues turned out to be sharp, of course, remaining within the framework of a scientific discussion.

The round table was attended by deputies of the State Duma of the Russian Federation, famous scientists from Moscow, St. Petersburg, Vladivostok, Yelets, Omsk and a number of other cities of Russia, as well as representatives of the scientific community of Azerbaijan. The round table was opened by A.M. Bagmet - Acting . Rector of the Academy of the Investigative Committee of the Russian Federation, Candidate of Legal Sciences, Major General of Justice. Opening remarks were made by A. I. Barykin - Chairman of the Investigative Committee of the Russian Federation, Doctor of Law, General of Justice.

Nepomniachtchi Tatiana Viktorovna

REVIEW ON: RAGIMOVA ILGAM MAMEDGASAN-OGLY "ON THE MORALITY OF PUNISHMENT": monograph. - SPb .: Publishing house "Legal Center", 2016. - 224p.

No. 5, 2016

The review is devoted to the monograph by I.M. Ragimov "On the morality of punishment." In this work, the author deeply analyzes the problems associated with the moral foundations of the origin of punishment, the moral principles of punishment, the conditions for ensuring the moral principles of punishment. Quite rarely, in modern research, the question of the attitude of religion to punishment is raised. Addressing it is one of the undoubted advantages of the book. One of the main questions to which the author is trying to find an answer is the following: should punishment be applied or is it better to give preference to alternative non-punitive measures ? The problems of the effectiveness of punishment are considered in sufficient detail. There are interesting arguments about the justice of punishment. One of the sections of the monograph is devoted to such a complex and controversial issue as the morality of punishment in the form of the death penalty. Attention is drawn to the fact that the monograph ends with "Theoretical and Practical Recommendations for the Legislator", which testifies not only to the theoretical, but also to the practical significance of this study. What distinguishes this work from other quite numerous studies on the problems of punishment in recent years is its deep study of problems, an analysis of all or at least most of the points of view on a particular debatable issue. Much credit to the author is also in the fact that he managed to collect a very extensive empirical and statistical material.