Vedeneev Yuri Alekseevich

Theory of State and Law: Between Apology and Critique of Conceptual Foundations

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The article is devoted to the current state of the development of jurisprudence and is defined by the task of finding new subject and conceptual foundations of the scientific discipline. The study of the issue assumes a wide socio-cultural and interdisciplinary context of theoretical and practical rethinking of the subject and structure of legal science.

The cultural and historical perspective in understanding law as a linguistic and cognitive reality, at the same time figurative, symbolic and conceptual, constitutes, in our opinion, the direction and approach in its study, which allows us to reveal the actual meanings and meanings of law in various civilizational (discursive) practices of social communication ...

The analysis of changes in the systems of legal knowledge or the subject, structure and language of jurisprudence in the context of the socioculture of certain historical epochs in the development of the science of law allows us to determine the fundamental role of legal science in the formation and development of the legal system as a whole.

Zlobin Alexander Vladimirovich

Forms of law in modern Russia

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In modern legal science, both their traditional types and those whose legal nature is ambiguous are called as existing forms (sources) of law in the Russian legal system. The forms of law known to the legal systems of the world are considered and the author's vision of their legal status in the Russian legal system is proposed. The factors that determine the composition of the forms of law in a particular legal system are named.

All existing forms of law in relation to the modern legal system of Russia are assigned to one of three groups: forms of law officially recognized by the state (legal custom, normative legal act, normative agreement); forms of law not officially recognized by the state (religious norms, legal doctrine, individual legal acts, individual contractual acts, legal awareness, legal culture); forms of law, the legal status of which is not officially determined, is ambiguously perceived by the academic community and practitioners (legal precedent, legal practice, acts of interpretation of law, generally recognized principles and norms of international law).

The existing limitation of officially recognized forms of law is explained by the long-term predominance of the doctrine of positivism in Russian jurisprudence, harmoniously combined with the Marxist-Leninist theory of law. In turn, the prevalence and privileged position of the normative legal act inevitably led to the “nationalization of law”.

With the strengthening of democratic foundations in the society of the state, it is possible and even advisable to expand the officially recognized sources of law, adopted by various, including non-state actors. Some conditions are indicated under which it is permissible and justified to increase the composition of the forms of Russian law.

Kuzmin Igor Alexandrovich
SPECIFICITY OF PRIVATE LIABILITY
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The dynamic development of legal systems prompts researchers to focus on the basic categories of jurisprudence and rethink them taking into account changes in the social and humanitarian reality. The objective need to ensure the interests of the state and society, on the one hand, and private interests, on the other, predetermined the existence of relatively separate legal communities: public and private law. There is an actualization of the issue of the existence of specific types of legal responsibility, adapted to protect public and private interests. A unique set of measures of legal responsibility under the joint name "private law responsibility", studied in theory and widely used in practice, needs its consistent understanding by the legal community, first of all, from the point of view of nature and main content. The article presents an integrated approach that reveals the features of private law and its main protective means - private law liability. Based on the analysis of normative, scientific, educational and reference literature, law enforcement positions, the author comes to an opinion about the independent meaning and role of private law responsibility in legal regulation. The purpose of establishment and application, scope, forms of manifestation (types), legal consolidation, factual basis, subject composition, form and mechanism of realization of private law responsibility are considered. In the course of the research, questions were studied about the relationship between the goals of private law and the goals of private law responsibility, the penetration of private law responsibility into the sphere of public law, about the relationship between the structure of private law and the types of private law liability, about its forms, depending on the possibility of specifying the sanction in an individual legal contract. The content of a private law tort as an actual basis of liability is characterized, the features of the primary and derivative subjects of private law - participants in legal relations of responsibility are named, and specific properties of the implementation of private law liability in a voluntary and compulsory manner are revealed. Based on the results of the work carried out, generalized conclusions were formulated. the features of the primary and derivative subjects of private law - participants in the legal relationship of responsibility are named, as well as specific properties of the implementation of private law responsibility in a voluntary and compulsory manner are revealed. Based on the results of the work carried out, generalized conclusions were formulated. the features of the primary and derivative subjects of private law - participants in the legal relationship of

responsibility are named, as well as specific properties of the implementation of private law responsibility in a voluntary and compulsory manner are revealed. Based on the results of the work carried out, generalized conclusions were formulated.

Batyr Vyacheslav Anatolievich

The Russian-North Korean project "Hasan-Rajin" in the system of international economic restrictions (an impregnable Russian-Chinese bastion in the DPRK)

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The article examines international economic restrictions imposed by the UN Security Council and individual states in relation to the DPRK in connection with the implementation of nuclear programs by the North Korean state; analyzes the reasons for the non-proliferation of restrictions on the Russian-North Korean project "Hasan-Rajin" for the supply of coal for export from the port of Rajin (Rason) to China and the Republic of Korea; correlated the consequences of the adopted restrictive measures and the possible manifestation of genocide against the North Korean people; the prospects for the formation and development of international transport corridors in connection with the integration processes in the Far Eastern region are considered; identified the interests of states (RF, China, RK), affected by the introduction of restrictive economic measures against the DPRK; the specifics of the project's implementation in connection with the issues of repayment of the DPRK's external debt to the Russian Federation have been clarified; the author's vision of solving the North Korean problem and the development of Russian-North Korean cooperation in the implementation of new projects is proposed.

Egorova Maria Alexandrovna

ABUSE OF A DOMINANT PROVISION AS A SPECIAL CASE OF ABUSE OF RIGHT

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The question of the relationship between the categories "abuse of a dominant position" and "abuse of law" has not yet found an unambiguous solution in the legal doctrine.

In the article, these categories are compared according to several criteria: 1) according to the composition of the grounds for use; 2) for the purposes of legal regulation; 3) on the legal consequences of violation of these norms; 4) according to the principles of legal regulation; 5) by the ratio of private and public interests in the formation of a model of legal regulation of the studied categories.

The main doctrinal approaches to the ratio of the categories “abuse of law” and “abuse of dominant position” are considered, one of which is based on the identity of these categories, and the second, on the contrary, on their

differentiation, as well as a wide range of law enforcement practice of the FAS Russia.

The article concludes that the presence of market power provides an opportunity for a subject with signs of a dominant position, in order to gain economic advantages, in bad faith (that is, to the detriment of other market participants) to exercise his rights within the general legal capacity. Based on this, the author argues that abuse of a dominant position should be regarded as a particular case of abuse of rights.

In order to improve the antimonopoly legislation, de lege ferenda, it seems that, due to the peculiarities of its law enforcement activities and functions, the competence of FAS Russia should be significantly expanded in terms of the possibility of applying direct (cross-cutting) principles of civil law, such as the principle of rationality, justice, good faith, one of the elements of which is the principle of prohibition of abuse of law.

The author comes to the final conclusion that abuse of a dominant position cannot be regarded as anything other than a kind of abuse of law, the result of which is or may be the prevention, restriction, elimination of competition and (or) infringement of the interests of other persons (economic entities) in the field of entrepreneurial activity, or of an indefinite range of consumers (part 1 of article 10 of the Civil Code), and in addition to the sanctions provided for by administrative legislation, the refusal to protect rights (clause 2 of article 10 of the Civil Code of the Russian Federation) and compensation for damages (Clause 4, Article 10 of the Civil Code of the Russian Federation).

Shulakov Andrey Anatolievich

Public order in private international law and problems of interpretation and application of super-mandatory and peremptory norms

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An analysis of domestic and foreign legal acts and doctrine allows us to conclude that the differentiation of superimperative and peremptory norms is possible only on the basis of dividing the spheres of the country's public order (in the sense of private international law or in the sense of civil law). The definition of these areas and their constituent norms is possible by establishing the public interests provided by these norms. Over-imperative norms (Art. 1192 of the Civil Code of the Russian Federation) and norms operating within the framework of the clause on public order (Art. 1193 of the Civil Code of the Russian Federation), together constitute the sphere of "public order within the meaning of private international law." These norms are based on public interests, which are constitutionally significant values. Mandatory norms ensuring the effect of protective clauses enshrined in paragraphs 5 and 6 of Art. 1210 of the Civil Code of the Russian Federation, as well as clause 2 of Art. 1123 of the Civil Code of the Russian Federation, - cover the area that the doctrine of private international law refers to as "public order within the meaning of civil law." Mandatory norms are based on public interests that are not related to constitutionally significant values. It has been established that a universal criterion that determines the need to apply

superimperative and peremptory norms that protect various spheres of the country's public order from foreign law is the criterion for assessing damage to the interests of public order, associated with negative consequences for it. It is concluded that, in contrast to the concept of “norms of direct application” established in the legislation (Art. 1192 of the Civil Code of the Russian Federation), the term “superimperative norms” adopted in the domestic doctrine corresponds to the rules of the Russian language and legal technique. The prefix "over" indicates not only the hierarchy, but also on the system of norms in the bundle "superimperative norms - mandatory norms". The term “norms of direct application” does not give such a system hierarchy.

Zaikov Denis Evgenievich
Collegial bodies for the consideration of anti-corruption issues
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The organization of anti-corruption is an interconnected and interdependent set of measures of legal, social, organizational and other orientation, covering various areas of activity of subjects of anti-corruption relations and with the aim of creating the necessary conditions for effective anti-corruption. The most important in the organization of anti-corruption is assigned to special collegial bodies with exclusive competence to consider anti-corruption issues: establishing the presence (absence) of a conflict of interest, violation of the requirements for the official (official) position of a state (municipal) employee, making a decision on the possibility of overcoming the restriction on employment by a person

The specificity of the legal status of various categories of subjects of anti-corruption relations (state civil servants, municipal employees, employees), as well as the peculiarities of local conditions, predetermined the existence of differentiation of such collegial bodies. The author, highlighting the positive aspects of the legal regulation of the activities of collegial bodies to consider anti-corruption issues by analyzing and comparing their powers, comes to the conclusion that there are significant shortcomings in the regulation of these relations, which negatively affect both the effectiveness of anti-corruption measures and objectivity and impartiality. decisions taken by such collegial bodies.

In addition, the article focuses on the differences in the competence of collegial bodies to consider anti-corruption issues and their decision-making procedures, due to both the peculiarities of the legal status of the controlled entities of anti-corruption relations and the unreasonable distribution of powers between the members of the said collegial body. The author proposes ways to improve anti-corruption legislation.

Grebenkov Alexander Alexandrovich

The concept of information crimes, the place in the criminal legislation of Russia and the place of signs of information in the structure of their composition

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The article discusses topical issues of countering a new form of crime - information crime. This category of crimes is relatively new for the criminal legislation of Russia, which is due to the fact that in the last decade, due to the rapid development of information technologies, new forms of socially dangerous acts related to information circulation have appeared, and even long-known criminal acts (for example, fraud) have undergone a significant transformation.

The author examines some of the previously proposed definitions of information crime, identifies their advantages and disadvantages. It is concluded that the allocation of information crimes should be associated not directly with the presence in their composition of signs related to information, but due to the fact that their mechanism involves the use of information technologies and (or) information and telecommunication networks. These crimes are of a high-tech nature, which predetermines the significant specificity of their criminological characteristics and forensic investigation methods. The following main groups of information crimes were identified: specifically information crimes, crimes of a general criminal nature, in which the use of information technologies and (or) ITS significantly facilitates the commission of a criminal act or the concealment of its traces, makes it possible to systematically and massively commit criminal acts, as well as crimes of a general criminal nature, where the use of these technologies does not significantly affect the criminal outcome. Indicates the place that each of these categories in the criminal law.

In addition, the issue of the place of information signs in the structure of a crime was investigated on the example of libel, computer fraud and illegal access to computer information. It is concluded that it is undesirable to consider information as a subject of a crime due to its intangible nature; alternative options for classifying information as other signs of corpus delicti are proposed.

Volkonskaya Ekaterina Konstantinovna

CRIMINOLOGICAL ASSESSMENT OF THE CURRENT SITUATION RELATED TO CORRUPTION CRIME IN RUSSIA

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In the Russian Federation, at present, special attention is paid to combating corruption and, in particular, increasing the level of responsibility for corruption crimes and improving law enforcement practice in this area (clause 46 of the National Security Strategy of the Russian Federation, approved by the Decree of the President of the Russian Federation of December 31, 2015 No. 683). In this regard, the relevance and practical significance is the assessment of the results of the measures taken to combat and changes under their influence in the criminal situation in the field of corruption crime.

The author has analyzed and illustrated with examples of judicial and investigative practice the contents of the list No. 23 of corruption crimes, approved by the Direction of the Prosecutor General's Office of Russia No. 65/11, the

Ministry of Internal Affairs of Russia No. 1 dated 02/01/2016. The importance of correct (legally literate) understanding by all officials of government and local self-government bodies, as well as citizens, of the range of corruption crimes as a set of unlawful acts, not limited only by facts of bribery (Articles 290-291.1. topical directions of the National Anti-Corruption Plan for 2016-2017, approved by the Decree of the President of the Russian Federation of 01.04.2016 No. 147.

Based on the study of official statistics on the state of corruption crime and certain types of corruption crimes, as well as on convicts in 2012-2015. (and according to Articles 290, 291 of the Criminal Code of the Russian Federation - for 2001-2015) in Russia, the author revealed significant changes in the criminal situation associated with corruption crime at the present stage. Among them:

- a steady decline in the proportion of corruption-related crimes in the structure of general crime: from 2.15% in 2012 to 1.36% in 2015;
- a steady and rapid increase in the structure of corruption crime in the proportion of bribery (Articles 290-291.1 of the Criminal Code of the Russian Federation) (+ 109.3%): from 20.5% in 2012 to 42.9% in 2015;
- for the first time in 2015 (over the last 15 years), the excess of the number of registered facts of giving a bribe over the number of registered facts of receiving a bribe;
- against the background of the annual decrease in the number of registered corruption-related crimes (-34.5%), there is a steady increase in the number of convicted corruption crimes (+ 91.2%).

Aminov Ilya Isakovich

The indigenous population of the Transcaspian region in the state and military service of the Russian Empire (1881-1917)

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For the dissemination and approval of the Russian authorities in the Trans-Caspian region, various methods were used to involve the Turkmen population in state and military service: 1) teaching children in Russian educational institutions; 2) entrusting the closest executive power to representatives of the national elite; 3) the introduction of the Russian language into the office work of local administrative and judicial authorities; 4) the assignment of ranks, the granting of exclusive rights, the awarding of Russian medals and orders; 5) the creation of privileged national military formations (irregular units, convoy, police, security guards). At the same time, ethnic and religious affiliation did not serve in the Russian Empire as a criterion for promoting subjects up the career ladder.

These directions of state activity indicate that the imperial government on the territory of the Trans-Caspian possessions, as in the whole of Central Asia, did not pursue a policy of forcible Russification, but only sought to consolidate the

Trans-Caspian into the Empire, the spread of state institutions, taking into account the economic interests of not only alien but also the local population. This approach gives every reason to assert that the Transcaspian region, as an administrative unit, was a developing part of the Russian Empire.

Despite the consolidating nature of Russia's attitude to the Turkmen ethnos, the desire to civilizationally unite the region with the rest of the Russian state, the Transcaspian region, being one of the last territorial acquisitions, was not destined to integrate with the Empire. After the outbreak of the First World War, the Trans-Caspian Territory, like other areas of settlement of the Turkmens, followed the entire Russian Empire into a period of conflicts, crises, uprisings and revolutions. At the same time, the annexation of the Turkmen tribes to the Russian Empire accelerated the cohesion of the Turkmen society and laid the foundations of the modern Turkmen statehood, which was strengthened in Soviet times.

Tour Victor Grigorievich

STATE CONFESSIONAL RELATIONS IN THE CRIMEA IN THE FIRST HALF OF THE XIX CENTURY

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As a result of the annexation of Crimea to Russia in 1783, the problem of peaceful integration of the population into the legal field of the empire arose. Considering that the peninsula at the end of the 18th - first half of the 19th centuries was characterized by the dominance of communities of the so-called religions of “foreign faith”, peace and prosperity on the peninsula largely depended on the search for successful legislative solutions in the field of state-confessional relations.

Among the first acts of 1783, which laid the foundation for interethnic and interfaith peace, were the Manifesto of Catherine II "On the adoption of the Crimean peninsula, the island of Taman and the entire Kuban side, under the Russian residents and other Tatar peoples to Russian citizenship. " In fact, all further acts were aimed at fulfilling these guarantees, improving state-confessional relations on the peninsula. An important document that systematized various acts concerning the activities of non-Orthodox religious organizations in Russia was the "Statutes of Spiritual Affairs of Foreign Confessions" of Nicholas I.

As a result, through the religious and communal self-government bodies, acting in contact and under the control of the Provincial governance structures, the preservation of traditions and customs, a number of measures aimed at the economic and cultural development of the peninsula, the empire's authorities managed to achieve not only peace and harmony in Crimea, but and devoted service to the throne by subjects.

The proposed article is devoted to the study of state-confessional relations in the Tauride province.