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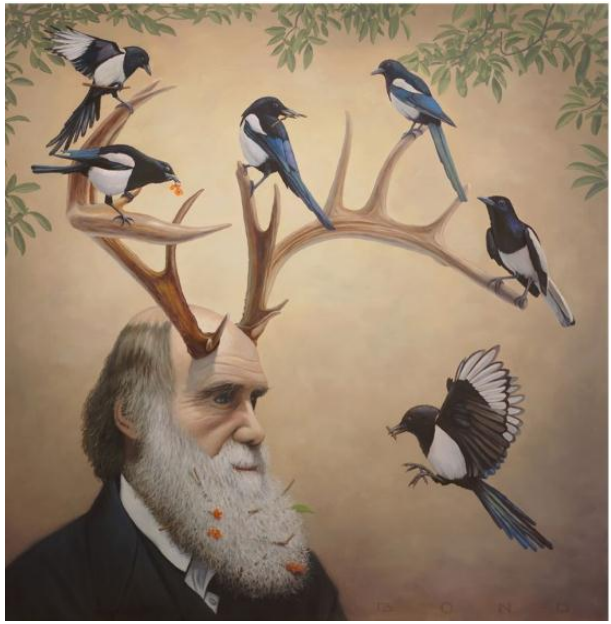

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# Modern problems and hypotheses of general theory of law: Succession and novation

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**Abstract**

The article is devoted to the consideration of the general theory of law issues in modern conditions of the Russian statehood development via system analysis of the phenomenon of law as a method. As a result, Ideal law, being the sphere of pure duty, turned on itself as the highest normative-value. In conclusion, the process of evolution of states continues its historically centuries-old procession, retaining continuity and developing the field of research activity innovations in socio-humanitarian science, including law.

**Keywords**: General, Theory, Statehood, Law, Innovations.

# Problemas modernos e hipótesis de la teoría general del derecho: Sucesión y novación

**Resumen**

El artículo está dedicado a la consideración de los problemas de la teoría general del derecho en las condiciones modernas del desarrollo de la estadidad rusa a través del análisis del sistema del fenómeno del derecho como método. Como resultado, la ley ideal, siendo la esfera del deber puro, se convirtió en sí misma como el valor normativo más alto. En conclusión, el proceso de evolución de los estados continúa su procesión históricamente centenaria, conservando la continuidad y desarrollando el campo de las innovaciones en

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actividades de investigación en ciencias socio-humanitarias, incluida la ley.

**Palabras clave:** General, Teoría, Estadidad, Derecho, Innovaciones.

## 1. INTRODUCTION

The social nature of a person's existence has led to the need for the law as the means of social relation regulation. Leaving aside the ongoing dispute between supporters and opponents of its future, we will proceed in our work from the following theses: a) law is reliable evidence typical of the overwhelming majority of modern cultures, which makes it possible to assert it as such as a generic feature of social being; b) at the same time, obeying the logic of development, the law is in a state of dynamic change, which makes it necessary to revise and, thereby, develops the general theory of law permanently, which explains the choice of this study subject (BAKULINA, 2014; AMEEN, AHMED & HAFEZ, 2018; BULĞAY & ÇETIN, 2018; ELBAN, 2018 ).

## 2. METHODS

For the successful implementation of the work purpose by its authors, the following methods are used: a) the transfer from the abstract to the specific and vice versa, which makes it possible to avoid schematization and dogmatization of ideas about law; b) unity and

opposition of historical and logical, which makes it possible to see the objective genesis of the general theory of law; c) system analysis of the phenomenon of law, which contributes to its vision in the context of changes reflected both by the means of research methods of the general theory of law and private legal disciplines, and, above all, by the methods of a set of social and humanitarian disciplines (KERIMOV, 2001).

## 3. RESULTS AND DISCUSSION

The general theory of law at different historical stages of its development confirms the well-known dependence of the theoretical constructions of any science on the foundation on which they are developed. Its basic principles are the scientific conviction of the need to build and develop an objective, consistent, systematic and verifiable knowledge about the evolution of law. The development of law genesis problems, which depends on the ideas about law as such and doctrinal interpretations of the very concept of law, is of particular importance in the study of a general theory of law (BRAGIMOV ET AL., 2016). The interpretations of goals, objectives and ideals of law, however, changed historically depending on the transformations of political, socio-economic, cultural and other spheres of government, as well as from particular goals and interests of ruling subjects in different eras.

In this regard, the reproaches addressed to the general theory of law regarding the blurring of the boundaries of theoretical jurisprudence, by paying attention to the study of the so-called legal epiphenomena, the attention to research of non-legal phenomena (economics, politics, morality, etc.), scholastic interpretations, right, the symptoms of the crisis of theoretical consciousness, in general, seem unfair. In our opinion, the doctrinal consciousness, which studies philosophical and legal, political, economic and legal, sociological and legal, and other peculiarities, regularities and accidents involved in law genesis procedures, can hardly be distanced during the consideration of this problem area from the study of state evolution in interaction with legal and other phenomena immanent to it (LIPINSKY, BOLGOVA & MUSATKINA, 2019).

The complexity and inconsistency of formation, functioning and development processes for such phenomena as law and the state, as well as the variety of forms of their manifestation in the social continuum, initiate interest in their research and demonstrate serious evolutionary processes of theoretical state-legal consciousness. The cognitive system of the substance and content of law must provide historically objective knowledge of events occurring during a given period, in particular, state events, from the point of view of their interrelated kinetic features and patterns that are important both for the evolution of the state and law.

Private theoretical constructs about law and state, which often have apparent autonomy and independence, are ultimately

synchronized into a single integral (synergistic) theory, as evidenced by the names of the academic discipline and scientific specialty. In our opinion, such a theory could be called a general theory of statehood, taking into account the necessary and appropriate prerequisites, as well as the opinions of reputable scientists in this field, taking into account the genetically inseparable and organic connection between law and state, at least in educational legal process (KHAZIEVA & KHAZIEV, 2017).

The scientific provisions of the general theory of law can explain the temporal and topological nature of law in terms of its universal property of being the regulator of social relations, with the exception of certain periods of pre-state and pre-legal states of human communities (which is a debatable sphere depending on the type of legal thinking of researchers). Legal consciousness is formed and exists at the level of emotions, instincts and desires, feelings, beliefs, etc. Distinctive mental and vital characteristics of the Russian consciousness, including the sense of justice, are the perceptions of the law as Truth, Justice, Freedom, which is also noted by the Russian Federation President Putin.

In our opinion, such features are conditioned by the historical religiosity of our people. The search for its spiritual virtue in law leaves the space of legal consciousness almost always open and servile, evaluating the rule-making and the activities of government from the standpoint of justice. This is both a vulnerable property of the

national sense of justice and its dignity. In contrast, for example, from the European or American sense of justice (STEPANENKO, 2015).

Now the patterns of the Russian legal consciousness development, based mainly on the tenets of the Christian religion, are of interest to researchers. The return to religious issues in the studies of legal consciousness becomes consciously necessary during the periods of lack of any clear ideas about the ideology of states, especially during the periods of their transitional or revolutionary states (therefore, there is a need to re-actualize the idea of teaching legal law theology in the higher law school which in modern conditions of various destructive forms of religious and national manifestation growth is of paramount importance for the legal science and practice) (RYBAKOV & TIKHONOVA, 2014).

Cognitive dissonance that occurs during such periods in the psychological structure of the personality leads to 1) sublimation (including the possibility of converting negative behavioral factors into positive ones); 2) escapism - forgetting or avoiding problems through the use of artificial pathogens (alcohol, drugs, tranquilizers, etc.); 3) frustration of being in a state of hopelessness, despair, unbelief and anomie, leading to aggression and auto-aggression; 4) protest reactions, riots, revolts, revolutions, through which a person experiences cognitive dissonance and either tries to solve his problems or expresses his disagreement with the current situation in a non-legal form as a rule. It seems that the subjective and objective factors of modification causality for both ordinary, professional and doctrinal

legal consciousness, together with the reasons of socio-economic and political nature, served as the starting point of reformatting not only the national but then the international state and legal space (NERSESYANTS, 1998).

Since the study of the historical processes of social and legal genesis cannot bypass the anthropologism of these phenomena (after all, law is mediated and lives in people, shows its effectiveness through them), the authors of this study hypothesize the formation of synergetic jurisprudence studying the causality and consistency of biopsychological, sociocultural, political, economic and other factor nature that determine legal / non-legal behavioral patterns of legal relations affecting legal statuses, etc., in interaction and integration.

In this regard, it seems that the field of scientific legal knowledge requires a significant transformation, first of all, on the types of legal understanding and their classification, which have long overcome their dual explanation from the standpoint of positive and natural law, in various interpretational models of socio-humanities and jurisprudence (RYBAKOV, 2017). The construction of separate legal concepts, especially relevant to modern problems of jurisprudence, is far from exhausted only by two traditional types of legal understanding. At the same time, the researchers of the general theory of law experience a certain deficit of methodologically formulated and tested models of these teachings, theories and concepts, objectively going beyond their limits and adapting their positions and conclusions

to the format of the dualistic law interpretation typology in a forced way.

The inclusion of such a theoretical construction as, for example, ideal law, on the one hand, probably will minimize the set of fundamental jurisprudence issues, on the other hand, will help to detect many other general theoretical problems, the solution of which seems to us a large-scale unexplored space of legal and also general scientific interests. Ideal law, being the sphere of pure duty, turned on itself as the highest normative-value, ideological image, aimed at axiological perspective, acts as a kind of existential beacon of a man and becomes the object-subject sphere of knowledge of the general theory of law.

## 4. CONCLUSIONS

Thus, the process of evolution of states, in which, contrary to the ideas of historical materialism, neither law nor the state died out, in spite of the aspirations of ideologues and the actors of individual revolutionary reforms, continues its historically centuries-old procession, retaining continuity and developing the field of research activity innovations in socio-humanitarian science, including law.

Also, the general theory of law, despite the revolutionary, scientific, socio-economic and political transformations of the substantive aspects of its research, remains a fundamental area of legal science, evolving simultaneously with the national and interstate

civilization. The main task of theoretical law and state science, both earlier and now, remains, as was noted in the special literature, firstly, the study of the laws of that area of social phenomenon development, which is known as law and, secondly, this is the definition of legal policy in the sense of the theory of art, i.e., what should be, what should strive for building the strategies for the legal development of modern Russia.

It seems to us that the study has achieved its goal, since the authors not only managed to reasonably demonstrate the onset of the time of change in the general theory of law, but also, outlined some of its key problems, and suggested the ways of their solution. Arguably defending their own position, nevertheless, they are opened to criticism.

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