

## THE PROBLEM OF TYPOLOGY OF STATES AND LEGAL SYSTEMS

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### Abstract

*The essence of the historical types of the state and law is one of the most important and crucial historical moments, without which it is not possible to correctly understand the development of their essence, their socio-political content and significance, their form, activity, or the change of their place and role in the political system of society.*

**Keywords:** state, law, historical type, typology, society, legal system, political system.

The study of state and law requires a different approach to the material (Leger, 2010, pp. 2-3). Many theoretical and practical varieties provide not only completely clear definition “in general” of what features and traits they have as social institutions, but also how they differ from other social institutions, how the state and law were defined at different stages of society’s development, how they were as state-legal institutions at different stages of society’s development and, finally, how they represent modern technologies.

The answer to these and many other similar questions, for both us and any researcher, leads to the conclusion that it is necessary to distinguish the existing and future types or classifications of the state and law from the whole of the state and legal systems.

According to the opinion formed in the legal, philosophical and sociological literature, the typology or classification of state and legal systems is an objectively necessary, regular process of recognizing the natural-historical development of the state and law, as the replacement of one type of state and law with another is historically inevitable process reflection.

Typologies are one of an important forms or means of knowing the historical process of the development of the state and law.

The most important feature of the law of the state, as well as any other social phenomenon, or the process of historical development of society, is its naturalness (objectivity), universal nature, continuity, which is accompanied by the emergence of certain stages of development, and they're strictly defined interdependence and sequenced (Zweiger & Ketz, 2000, pp. 29-30).

The acknowledgment of the typology of historical processes, executive and legislative systems is crucial.

Regarding the latter, which quite logically and inevitably implies the existence of different stages and historical indicators of the development of the state and law, it is necessary to especially emphasize that not only they don't mean the recognition of a certain separation in the history of mankind, but, on the contrary, they assume in every way that the development of human society, and along with it, the development of the state and law, is a continuous, extended, objectively conditioned natural historical process. Referring to this process, it is necessary to note that while the rules and regulations of peoples and their coexistence have changed, the path of historical development, as a rule, has not changed, peoples and generations have been connected by rings, and civilizations have followed each other consistently. Gradually, this process has accumulated a well-known body of cultural, including legal, knowledge.

The development process of human society, the state and the law is not only an objective process but also a subjective one. This observation refers to the society, the state and the law along with their entire historical process, as well as to their own causes, separate stages of development. Because what is often called human, and otherwise subjective factor, has a direct connection, first of all, not with the abstract process of state and law development, but with any, completely specific mechanism and legal system, of each distinct social class, human society, each specific state and with a person who have left a mark on the history of law development.

For example, describing the heroic campaigns and victories of Alexander the Great, and emphasizing the deep mark he left in the history of the development of the ancient society and the state, the famous Greek writer and historian Plutarch (approximately 45-127 BC) noted that his greatness and his influence on ancient civilization (the subjective factor) is expressed not only in the fact that in just one decade he created a powerful state, which not only had no equal before, but also created social, intellectual and other prerequisites for the further development of state-legal life and culture.

It was during this period that the Hellenic Age began, which was a combination of the historical, cultural and other traditions of the West and the

East. As Plutarch writes, the period of Alexander's reign became the era of flourishing for many arts and talents.

The subjective factor had a huge impact on the development of the state-legal and other spheres of society's life not only in the early period of the history of human development, but also in all its later stages (Safaryan, 1996).

Speaking in particular about the influence of Napoleon's rule on the development of the state and law of France and other countries, the famous French writer F. Chateaubriand wrote: "Bonaparte is great not only with his words, speeches and writings, but also with his love for freedom". He is great because he created a strong state, codes (which have been adopted by many countries), courts, and a powerful, efficient and intelligent system of administration, which we have not abandoned even today. These examples taken from the lives and activities of political and public figures of many countries, as well as different social strata, classes and groups, clearly testify that subjective factors, along with objective factors, have had and continue to have an impact on these two areas as well, the state and the law (Chistyakov, 1996, pp. 5-6).

It is neither temporary nor local phenomenon, but a continuous, comprehensive, global process. However, for the sake of truth, it should be noted that not all authors share this point of view. Famous philosopher K. Popper seeks, for example, to prove that "there is no single history of mankind, but rather many endless histories of the elements of human power related to the species". Popper believes that the universal legal history of mankind, if such existed, should be the history of all people (Popper, 1992, p. 312).

Neither domestic nor foreign authors share Popper's point of view. The opinion about the universality, continuity and globality of the historical process prevails, a process within which the process of development of the state and law takes place, and their standardization is carried out.

When solving the problem of the second typification, one cannot forget that the process of development of the state-legal substance is inextricably linked to the permanent development of the social essence, as well as the content and significance of the state and law, including the radical change of the basic principles of their organization and operation. For example, when one of the important principles of the serfdom-based state and legal system was the principle of private property, then as one of the main principles of the capitalist state and legal system, the formal-legal principle of equality of all citizens before the law is already appearing. One of the important principles of the feudal state and legal system was the principle of vassal subordination.

And thirdly, it is important to take into account that the process of transition of state and law from one level to another is organically combined, contains

elements of continuity, evolutionary development of state-legal phenomena along with their qualitative and quantitative elements.

The evolutionary (gradual) development of the state and law, which appears in the form of a gradual accumulation of quantitative and qualitative changes in them, and the revolutionary development, which represents a rapid, qualitative change of state-legal phenomena, is expressed as their two interconnected, organically harmonious, complementary sides of the natural-historical process.

The evolutionary development of the state and law takes place, according to the opinion formed in the scientific literature, basically within the framework of the same type of given phenomena, within the limits of the same socio-economic formation. The revolutionary development of the state and law leads to a quick and, along with it, a different, radical change in their socio-class nature, the content of the state and law, and another type of transformation of one socio-economic formation to another.

It should be noted that neither scientific nor social-political practice has the same perception of “evolution” and “revolution”. In Western legal and sociological literature, revolution is traditionally associated only with “rapid, unexpected changes in the social structure or its most important parts”. Moreover, it is emphasized that its forms depend on the “volumes and speed of changes” and that revolutions “may or may not be accompanied by disturbances and temporary disintegration of public life” (Dictionary of Sociology and Related Sciences, 1988, p. 259).

At the same time, in domestic literature the revolution is combined not only with rapid but also the fastest qualitative changes and development, not only in natural phenomena, society, or the process of cognition. Special attention is paid to the fact that the revolution appears “as a break in sequence, qualitative leaps” and it differs from evolution and reform.

Evolution (gradual development), in contrast to revolution, is necessarily viewed as slow, time-extended process of qualitative changes that occur in society, the state, law, and the environment. It is a process of change, in which each subsequent stage of development is organically connected to the previous one, in which growth or development is combined with continuity and deep sequence.

In state-legal theory and political practice, the differences between the state and the revolutionary and evolutionary branches of law are not always clearly demarcated. Moreover, it is often presented as revolutionary for political and ideological purposes. As a rule, this happens when they try to emphasize the special importance of this or that political, legal, socio-economic reforms taking place in any country.

In addition, the “revolution” representing the transformation of the state and law and the transition from one class to another, was often replaced by another phenomenon called “coup”. A coup means a transfer (seizure) of power from one part of the ruling class to another, from one group or faction of the political electorate to another in an unconstitutional, often violent manner.

A coup, regardless of its name (military, state, parliamentary, etc.), does not lead to a direct change in the type of state. It does not touch the deep and essential layers of the entire state body.

The coup is followed by partial changes in the state’s mechanism and its functions. For example, changes related to state administration, political or state regime, domestic and foreign political trends are taken into account.

In legal and particularly political science literature, an opinion has been formed for a long time that, regardless of the peculiarities of its existence and activity, the state and law take a historically formed path of development, from the slave type to the socialist one. Between these types of state and law are the feudal and capitalist types, respectively.

There are claims that the process of development of the state takes place in an upward direction and by nature it is an irreversible process. However, state-legal practice does not fully confirm this provision. That provision is fully confirmed only by the first part, where we are talking about the general trend of the state’s development in an upward direction. However, this is only partially done in the second part.

The progressive development of the state (on an upward line) is expressed in the fact that the democratic principles of its organization and activity are strengthened, its social foundations are expanded, and the range of rights and freedoms granted to its subjects and citizens, increases to the extent of the transformation of the state from one type or essential characteristic to another. (Syrykh, 2004, pp. 622-623). Other circumstances testify to the progressive development of the state: the improvement of the state mechanisms, the expansion of the constitutional and legal bases of its activity, the improvement of the mechanism of interdependence and interaction between the state, society, and other socio-economic institutions.

As for the irreversibility of the development process of the state and law, and the sequence of changes in their types, the following should be said here: undoubtedly, the scientists are correct who claim that just as one cannot stop the natural-historical development of society, along with it, the state and law, as one cannot prevent their transition from a lower level to a higher one, from one type to another, because it is an objectively conditioned, determined process, so one cannot reverse history and go back from the successive stages of development of the state and law to their predecessors.

The same theoretical statement regarding the irreversibility of the development process of society, the state and law is not subject to any doubt. Its truth has been repeatedly confirmed by life, social and state-legal experience.

However, this provision cannot be made absolute, as the objective, deterministic nature of the development of society, the state, and the law is not equivalent to the fatal, predetermined nature in everything. As is well known, in the development process of human society, along with it, the state and law, there is not only necessity, but also historical contingency, which in some specific cases can lead to a reverse movement, a slowing down, regression of the progressive development of the state and law in a given country. Fascism gives several such examples, the establishment and existence of which in any country is inevitably connected with the slowing down of the process of progressive development of the state and law in the given country, stagnation of state-legal life, relative backward movement. The inadmissibility of the absolute inadmissibility of the process of development of the state and law is also confirmed by the fact that in recent years, after the collapse of a number of previously declared socialist “communisms”, there appeared a transition from “socialist” to “communist” rather than the state-legal mechanism. Development, that should have resulted from the irreversibility of the process, but the quite opposite took place.

This is confirmed not only by the theoretical boundaries and statements of government leaders during the wave of “reconstruction” about the need to go the opposite way from “socialism to capitalism”, but also by the experience of state-legal and economic construction in that country.

It has been and remains all that, instead of searching for future, new state-legal and economic systems corresponding to the time, lightly appeals to the irreversible past, the fictitious “socialist development” to the transition to wild capitalism, which has long since disappeared from the stage of history.

It is worth noting that Armenia, as well as other Eastern European economic countries, have similar “future-past” views of the socio-political state-legal order shared by all theoreticians and practical scientists.

It should be noted that the state constitutional process has taken place in Eastern Europe, or is it a “post-socialist, but a co-socialist region”, “can overcome current problems?” To practically implement new state-legal ideas corresponding to the spirit of the time. And the efforts of mechanical introduction of Western experience, institutions and normative-legal acts, as a rule, have a very painful end to the socialist versions that were announced at first, and then at one time renounced their ideology (Khotin, 1996).

In the light of what has been said, it is particularly difficult to disagree with the Belgian professor K. Malfliet’s opinion is that it is often the western

legislation and simply cannot “social-economic realities of Russia” to all the demands of democracy and a developed market economy, an ideal post-communist legal solution is not always presented (Malfliet, 1994, pp. 86-87).

Speaking about the content and significance of the typology of state and law, it is necessary to note that it is a fictitious reality separated from life and reality. In the process of its implementation, scientists rely on the vast factual material accumulated by various legal and non-legal sciences, in particular, the state and law, political science, sociology, constitutional law, etc.

Based on the study and generalization of this material, the existing objective connections between the state and the law on the one hand, as well as between the economic and social structure of society on the other hand, are defined and revealed.

### **Conclusion**

In accordance with the different levels of development of the economy and society, taking into account the patterns of their economic development and activity, the appropriate levels of development or the type of state and law, as well as the patterns of their existence and activity, are defined. A close connection and interdependence exist between the types and development patterns of economy and society on the one hand, and state and law on the other. However, there is no rigid, direct connection and correlation between them. The regularities of development and the escalation of state and law from one type to another generally corresponding to the transformation of development patterns and economic base and society into different types, along with it, have their own peculiarities, their relative independence.

What is the social meaning and significance of the typology process of the state and legal systems? The practical importance of typology, both in theory and in political practice, is as follows. First, in the fact that the developed ideas about the typology of the state and law provide the key to the correct understanding the role of the discussed phenomenon and the natural-historical development process of qualitative transition from one level to another. Second, in the fact that typology equips the researcher with an understanding of the internal logic and patterns of the historical development process of the state and law, it acts as a basis for scientific forecasting of the state and law of Armenia as well as other countries. Third, in the fact that the process of typology of the state and legal systems allows to organically combine the research of general patterns of phenomena unique to all types of states and rights of state-legal development, without exception, with peculiarities specific only to some states and rights, with the natural state and law, the whole process of historical development with its separate parts, the process of development of specific historical events. Fourth, in the fact that in the process

of typifying the state and legal systems, all the necessary prerequisites and opportunities are created for the wide generalization, coordination and analysis of all factual and scientific material, material that refers to the entire process of the origin and development of society, the state and law, to all sides of their transition from one degree to another consistently. Finally, fifth, in the fact that the process of typification of the state and legal systems creates an objective basis for the scientific penetration of the deeper layers of the natural-historical development process of the state and law, allows special distinctions to be made between scientific and pseudo-scientific state-legal theories. It is an opportunity to carry out state-legal construction in different countries with a strictly scientific life, based on proven experience.

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