

The Development of Federalism as a Concept and State-Legal Formation in the Light of an Integrative Approach

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Abstract: In the context of modern globalization, the task of clarifying the role of the federalism idea as a conceptual level of cognition in the context of the formation of new forms of state-legal education becomes urgent. The most important prerequisite here is a theoretical and methodological solution to the problem of federalism as a concept involving the consideration of its historical understanding and the solution of issues of federalism as a state-legal formation (practice) inextricably linked with the genesis of the federalism concept. Hence, the main purpose of the study is to investigate the stages of the federalism concept formation and discloses the historical features of its practical implementation. Two opposing principles of federalism (integrative and disintegrative) are defined and the promising outlook of its research from the perspective of an integrative approach is shown.

Keywords: Federalism concept, integrative and disintegrative principles, practical implementation, integrative approach.

INTRODUCTION

Federalism is a mixed or compound mode of government that combines a general government with regional governments in a single political system. Significant methodological difficulties arise in defining the idea and concept of federalism, and especially upon the creation of its state-legal concept; this requires the development of fundamentally new philosophical, methodological and general scientific means, including an integrative approach (Caraka, Hafianti, Hidayati, Wilie and Muztahid 2019).

1. Development of the Federalism Concept in Western European and Russian Philosophical and Legal Thought

Unions of peoples in various political and legal forms arose and initially developed in antiquity and medieval Europe. The creation of proto-federalism was also taking place here, since the idea of federalism had not yet received the proper state and legal justification at that time, and any alliances led, in the end, to the formation of a unitary state. As A.S. Yashchenko (1908) rightly notes, "although medieval life and thought already knew the federative idea; this idea was deepened and received its moral and philosophical justification only since the time of the Reformation", during which a federative movement arose.

The emergence of the federalism idea precedes the appearance of federalism itself (practice). It is ideas that underlie the concept and theory of federalism as a form of government. The historical forms of the federalism idea developed in the conceptual terms of "image", "notion" and "concept". At the same time, the idea of federalism arises in a man who reflected an emerging state-legal reality and constructed a new image and concept of it (Pakhomov 2013; Kurniawan, Siagian, Yuniarto, Nasution and Caraka 2018).

The idea of federalism appeared in Western Europe as a kind of the antithesis of the absolute power of the monarch, being justified by the principle of absolute sovereignty. Its formation and development was associated with the formation of bourgeois relations, when centralized monarchist statehood becomes ineffective, and the principle of absolute sovereignty became an obstacle to the development of capitalist society. Under these conditions, there was a need for new forms of political-territorial organization of states, which contributed to the emergence of the first secular state-legal entities (Chen, Dewi, Huang and Caraka 2020).

Western European jurisprudence has relied on the idea of federalism, which includes such components as sovereignty, treaty, and independent branches of government. This idea was adopted as a kind of legislative action before federalism itself was created as a state-legal reality. The creator of one of the first concepts of federalism in Europe was I. Altusius, who

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put forward the position of popular sovereignty on the basis of the principle of union or consent. In his treatise *Politics*, the concept of a social contract was first set forth; it was based not on theological doctrines, but on the existence of secular public associations, being organic in their nature. The basis of his concept is the inalienability of popular sovereignty, which is controlled by the people who make up the associations and form the state ((Caraka *et al.* 2019).

In new European philosophy and jurisprudence Montesquieu (1999) raised from a conceptual point of view the question of the essence of federalism and revealed the systemic nature of a federal state. For example, Montesquieu (1999) divided state power into three branches: legislative, executive and federal, thereby disclosing the political and legal mechanism for building a federal state. Montesquieu (1999) made a significant contribution to the development of the federalism concept, proving that a federation is an ideal form of government and its advantages are in reliability and stability, since destructive forces are opposed by numerous centres of resistance against destruction both from the inside and from the outside. Speaking about the federal republic, Montesquieu (1999) noted: "This form of government is an agreement by which several political organisms are obliged to become citizens of one more significant state, which they wished to form". In his opinion, people invented this optimal form of government, this particular system, combining the internal virtues of republican government with an external force in the form of monarchical government. He also pointed out the need for separation of powers and the establishment of international solidarity.

The concept of "federalism" was introduced into wide scientific circulation by I. Kant (19994), who believed that "international law should be based on the federalism of free states", and the consent of politics with morality is possible only in a federal union, which is given in accordance with the principles of law a priori. The idea of federalism turned into his a priori concept of pure reason, which regulates and sets the goal of cognition and paves the way for the practical implementation of federalism. The Kantian idea of the world civil order, or "eternal peace" of the confederation of legal states, followed by the problems of human rights and obligations. He thought of the future of Europe as a single federal state developing on a legal basis (Chen *et al.* 2020).

Madison, Hamilton, Jay, Tocqueville and Weitz created one of the first classical concepts of the division of sovereignty between a federal government and the power of individual states in the United States, giving an understanding of the legal nature of federalism. The authors of *Federalist* were largely influenced by Montesquieu (1999) and his theory of separation of powers. They believed that a federal state is only a peculiar form of separation of Hamilton A., Madison J. and Jay J. (1994) who wrote about the peculiar form of the division of sovereignty that "The supreme power is wholly owned by the national legislature among the people forming a single nation. Supremacy belongs partially to the union-wide legislative bodies, and partially to the municipal ones, in the communities jointed for one purpose or another". Thus, the ideas of federalism of the Enlightenment figures contributed to a radical change in the state-legal sphere in Europe and North America (Kurniawan *et al.* 2018).

The idea of federalism was widespread in Russian science influenced by French Enlightenment at the turn of the 18th-19th centuries. The concepts of federalism developed here in two directions: 1) the continuation and, in part, the development of well-known Western theories; 2) the integration of Western theories with the traditions of Russian statehood already established at that time, in particular, with the concept of the Slavic Federation. The concept of federalism by N.M. Muravyov (1951) was considered the most complete and holistic among them; it took into account European and American legal experiences and attempted to combine them with the traditions of Russian statehood. The future of Russia, according to N.M. Muravyova (1951), was seen as a state with a federal form of government. He divided the state into separate federal units, which he called "powers." Considering the federal structure and organization of the legislative body, N.M. Muravyov thought it should be the Popular Assembly. It should consist of two chambers: the upper house was called the Supreme Duma, and the bottom would be the House of People's Representatives. He believed that the construction of a federal state in Russia is the most consistent with its essence.

Here one can also name the prerequisites of Russian federalism manifested in the form of "official federalism" by Fadeeva (2007), embodying the ideas of the liberal doctrine of European and American constitutionalism, as well as confessional federalism, which implied the creation of a single Christian nation (Russia, Prussia, Austria).

The conceptual understanding of federalism was carried out by A.S. Yashchenko (1908), who believed that federalism was “an expression of the political integration of human societies, one of the political means of organically uniting previously amorphous living communities, a stage on the path to true organic unity”. At the same time, in his opinion, federalism “is one of the stages to the creation of a unitary state”. Thus, the combination of the opposing principles of federalism was accomplished: union and decentralist.

Thus, the formation of various concepts of federalism occurred among peoples who chose the democratic path of the rule-of-law state development. Moreover, the theoretical and conceptual formalization idea of the federalism idea was carried out during the period of bourgeois-democratic revolutions in the context of the struggle against absolutism, contributing to the formation of federal statehood, as well as the establishment of human rights and freedoms (Enggartyasti and Caraka 2017).

2. Historical Features of Practical Implementation of Federalism Concepts

In relation to the history of federalism, we can talk about the dialectical relationship of its subjective and objective sides. If the formation and development of federalism as a concept has a long history, then the practical constitutional and legal embodiment of its principles lasts no more than two centuries. The formation of a federation as a new type of state was carried out in Western Europe and North America in the process of post-feudal integration or post-colonial unification. A significant source of the theory and practice of European federalism was the Swiss Confederation formation process, which took a long period (several centuries). The main function of the union of territories (cantons) that are part of the Confederation was to protect against an external enemy and ensure the benefits of life through the integration of efforts (Turusin 2013; Hamilton 2019).

Thus, the very fact of the historical appearance of the US and Swiss federations is associated with the tangible embodiment or implementation of previously created concepts of federalism contributing to the emergence of new federalist concepts. The idea of federalism as a concept was realized practically at first in Western Europe, and then in America in various ways, which was due to their sociocultural and cultural-anthropological specificity. So, when comparing the

German and Canadian federations, we can see their specific features. Germany is characterized by cultural and linguistic homogeneity, which reduces the threat of centrifugal forces. In turn, this encourages the development of “integrative” that is unifying federalism. Canada is a more heterogeneous cultural and linguistic society, therefore, centrifugal forces are more pronounced. Accordingly, federalism here is based on greater autonomy of the subjects of the federation, and the separation of federal and provincial jurisdictions is of fundamental importance (Ivanov 2008).

The next step in the practical implementation of the federalism concept was associated with the formation of the European Union. The economic and political integration of European countries began in the 50s of the XX century, and the further process of Europe-building actualized the idea of federalism and contributed to the creation of the European Union. The European Union follows the federal slogan of “unity in diversity” and recognizes the integrity and autonomy of its constituent parts being member states and regions. Mutual respect of the parties, the search for compromise, pluralism, and the voluntariness of the obligations assumed, all this becomes a part of a pan-European federalist construction (Hamilton 2019).

As to Western European social philosophy and science of the XX century, the concepts of federalism were developed gradually. Emphasizing the importance of this social phenomenon, R. Aron wrote in the *Principles of Federalism*: “Federalism is the only integral effort to break the deadlock and establish an order. It is for the middle of the 20th century plays the same role that liberalism played in the 18th century, Marxism in the middle of the 19th century, i.e. it corresponds to the ideas of our time allowing them to be used in theory and in practice”. Indeed, the ideas of federalism begin to be gradually realized not only at the national, but also at the supranational level. So, if the XX century is called the century of federalism, then the XXI century can be called the century of its practical implementation (Kurniawan *et al.* 2018).

The federations today include such highly developed states as Australia, Austria, Belgium, Canada, USA, Germany, Switzerland, and Russia. The federal trend is noticeably manifested in countries such as Spain, Italy, and the United Kingdom. The largest post-war federalization project is being implemented by the European Union, which is a prime example of

regional integration. Recognizing the heuristic value of the European Union model, it should be nevertheless noted that it cannot serve as a copy for similar integration processes around the world. In each case, it is necessary to build its own model of regional integration, taking into account the knowledge of both positive and negative historical experience.

The idea of federalism and its practical implementation on the basis of Russian statehood had its own characteristics. The following main stages can be distinguished in the evolution of Russian federalism: 1) centralized federalism in the Soviet Union; 2) decentralized federalism in 90th years of XX century and 3) modern federalism, which is characterized by a specific unity of the centralization and decentralization processes.

METHODS

Nowadays, federalism is acquiring not only theoretical, but also practical significance due to the fact that integration processes in the state-legal sphere have gained a rapid pace of development. The following sociocultural factors contributed to this: growing internationalization of production and the market, unprecedented technological progress, fundamental changes in the political map of the world, as well as ambiguous state and legal realities. And here it is important to use adequate scientific and general scientific methods. To that end, we utilized a comparative historical methods of the European model of federalism and the peculiarities of developing the model of Russian federalism with its experience of the past and present. The outcomes show that “both of these models are in the process of formation, and therefore differ in several features from the classical definitions of federalism... The model of the European Union is a kind of hybrid in the research literature combining the elements of Unitarianism, federation and consolidation.

CONCLUSION

In the 21st century, non-classical federalism is gradually being established, becoming the most important means of achieving social peace used to overcome conflict situations and the equitable structure of a multinational and territorially large state. It turns into the most important means of interstate and interethnic integration and therefore it is traditionally considered only within the framework of integration

theories, which is not entirely true. A decisive approach (integration or disintegration) is not characteristic for non-classical federalism. It contains both one and the other and it is not quite correct to speak of unitary federalism in relation to modern Russia. In this regard, a conceptual justification of non-classical federalism as a multidimensional state and legal entity integrating various components of statehood is required. Thus, the development of such a social institution as federalism in the context of modern globalization is due to its going beyond the borders of the state and turning into a universal means of interstate and interethnic integration. An integrative perspective of federalist topics helps to take into account its specifics in various regions of the globe. This is very important in the presence of two opposite trends (integrative and disintegrative) in the development of real federalism. An integrative approach allows us to choose convincing arguments when it comes not only to the concepts of federalism, but also to the complex realities of the current state building.

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