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ON THE QUESTION OF THE MAIN CONCEPTS AND THEORIES OF THE ORIGIN OF THE STATE**Zhadan V. N.**PhD in Law, Associate Professor
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Abstract. The article is devoted to the discussion of the main concepts and theories of the origin of the state based on the analysis of General theoretical provisions of legal science, scientific approaches and author's understanding.

Keywords: question, basic, concept, theory, origin, state, analysis, General theoretical provisions, approaches.

In the science of state and law (and especially the theory of state and law), there are many scientific materials that consider the laws of the origin, development and functioning of the state and law, historical types, forms, functions and other aspects that characterize the state and law [1-2]. Many scientists specializing in the theory of state and law (and in other areas of scientific research) offer their views on the theoretical characteristics of the state and law, their features, state-political forms and functions, and many other aspects, which does not deprive the author to Express his opinion on some issues related to the discussion of the origin of the state.

The subject of this review will be questions about the main concepts and theories of the origin of the state.

Based on the research subject of interest the following questions: what is a theory of the origin of the state; what the right science is called basic theory of the origin of the state; what are the terms "concept" and "theory"; which is accepted to highlight the concepts and theories of the origin of the state; how key concepts and theories explain the emergence of the state?

The author shares the scientific approach that the study of theories of the origin of the state (and law) is not only cognitive (theoretical), but also political and practical in nature [3, p. 97], as it allows us to understand the social nature of the state based on the proposed scientific theories and explanations of the causes, conditions and other circumstances that characterize the corresponding concepts and theories of the origin of the state.

The scientific literature and Internet resources offer many definitions of the term "theory of the origin of the state".

Thus, in one of the scientific dictionaries, theories of the origin of the state are understood as theories that explain the meaning and nature of changes, conditions and reasons for the emergence of the state [4].

In most sources that consider the theory of the origin of the state and law, the most well-known (basic) and widespread in the scientific community are usually called such theories as: theological (divine); Patriarchal; contractual; violence; psychological; racial; materialistic (class) [5]. In other sources, when describing theories of the origin of the state and law, the following are called: 1) theological (religious, divine); 2) Patriarchal (paternal); 3) contractual (natural law); 4) organic; 5) psychological; 6) irrigation; 7) violence (internal and external); 8) economic (class) [6]. Thus, it can be noted that the main theories of the origin of the state and law include: 1. the Theological (divine)

theory of state and law. 2. Patriarchal theory of state and law. 3. Contractual theory, or the theory of the contractual origin of the state and law. 4. Organic theory of state and law. 5. The theory of violence. 6. Psychological theory of state and law. 7. Materialistic (Marxist) theory of state and law [7].

Even in legal science, when describing the theories of the origin of the state and law, it is customary to name the full names of the founders and successors of these theories, namely: 1) the divine theory (F. Aquinas); 2) the Patriarchal theory (Aristotle, V. Mikhailovsky); 3) the contractual theory (G. Grotius, B. Spinoza, T. Hobbes, D. Locke, J. A. Radishchev); 4) theory of violence (L. Gumplovich, E. during, K. Kautsky); 5) organic theory (Plato, G. Spencer); 6) materialistic theory (F. Engels, K. Marx, V. I. Lenin); 7) psychological theory (L. I. Petrazhitsky); 8) racial theory (I. Kant, F. Hegel) [8].

Based on the principle of pluralism (from lat.pluralis - multiple (i.e.several or many) scientific views, opinions and approaches, which is due to the historical experience of mankind and the peculiarities of the formation and development of society, public consciousness and understanding, socio-economic system, the characteristics and originality of various regions on the world map, the specifics of ideological and philosophical views and representations (trends) or ideological attitudes, the influence and commitment of individual authors to the goals and tasks that they can set and, of course, set for themselves or others set for them, in other ways, the reasons and conditions for the formation of society and the state, and therefore distinguish certain concepts and theories of the origin of the state.

The emergence of the state (and law) from ancient centuries to the present time is considered to be among the most debatable in science, and there are many different concepts and theories in the world that explain the emergence of the state and law, which are usually called the main, most well-known and widespread.

It is generally recognized in science [9] that based on materialistic foundations, the dominant approach is that one should distinguish two historical ways of the emergence of the state. The first is the Eastern way of origin of the state ("Asian mode of production"), which involves traditional for Asian and African countries socio-economic relations, land community, collective property, the formation of a social group (estates, castes) that manage this property and then transformed into state bodies, etc. The second historical way States arose is called the "Western mode of production" on European territory, which provides for the identification of fundamental factors in the producing economy, such as the emergence of private property, the stratification of society into classes and classes, the aggravation of contradictions between them, the formation of management and enforcement bodies, etc.

The author adopts a scientific approach that at the stage of producing economy based on division of labor, the formation of the Patriarchal family, military conquest, the emergence of collective and private ownership, stratification of society into classes and the classes of administration and coercion, and other factors inevitably lead to a new organizational form of society - the creation of the state [9].

In addition to these approaches, which characterize the origin of the state through the definition of theories and historical ways (ways) of the origin of the state, it is also common to call scientific concepts and theories of the origin of the state, based on possible causes, conditions and other circumstances that suggest the emergence of the state (statehood).

According to the author, the approach that distinguishes the concepts of the origin of the state, and they in turn are characterized by the corresponding theories of the origin of the state, is of scientific interest. At the same time, based on the epistemological plan, the presence of many concepts and theories of the origin of the state indicates the relativity of human knowledge, the impossibility of creating an absolute theory in this area. Therefore, each of the concepts and theories has a cognitive value, since they complement each other and contribute to a more complete reconstruction of the process of origin of the state [4].

Let's consider what concepts and theories of the origin of the state are defined in legal science, and briefly how they are characterized?

First of all, let's find out how the terms "concept" and "theory" are defined in legal science and dictionaries, and how they relate?

In one of the scientific dictionaries on the Internet under the term "concept" (from lat. *conceptio*-understanding, system or "system of understanding") is understood as a set of views on something that are related to each other and form an interconnected system; a certain way of understanding, interpretation of any phenomena; the main point of view on the subject; the guiding idea for its systematic coverage [10].

In turn, under the term "theory" (from Greek. *theoria*-consideration, research) is understood as a set of statements closed with respect to logical sequence; a system of generalized reliable knowledge about a particular fragment of reality, which describes, explains and predicts the functioning of a certain set of its constituent objects [11].

Based on the above definitions, it can be noted that a concept is a system of interrelated views on a phenomenon, process or object of research (a certain approach), and a theory is a summation of knowledge about a certain part of the phenomenon, process or object of research.

We can agree with the opinion of I. I. Churilov that "at present, in many areas of activity, the concept is called a complete, ordered, meaningful knowledge about any complex subject or system, about the trends and directions of its (its) development, the main methods, stages of its (its) theoretical and practical development. Therefore, the concept of "concept" is now broader than the concept of "theory". The scope of this concept (concept) includes a complete knowledge of the stages, stage means of controlled transformation of the object or system to achieve a number of goals. Therefore, the concept of "concept" is easily combined with the concept of "reform" of any system, strategy and tactics of its implementation" [12].

Let's consider the concepts and theories of the origin of the state, and briefly how they are characterized. At the same time, the proposed classification of concepts includes not only the above-mentioned theories, but also other theories of the origin of the state.

The author shares the scientific approach that "... even in ancient times began to think about the causes and ways of the emergence of the state and law. A wide variety of theories were created that answered such questions in different ways" [13].

Among the first concepts are the mythological and religious concepts of the origin of the state (Plato (Aristocles), Quintus Tertullian, Aurelius Augustine, John Chrysostom, Thomas Aquinas, Jean Maritain), which are based on worldviews and ideas about the divine (supernatural) origin of the state, the General system of power, rules of social behavior. Their main characteristic is the absence of division between society and the state [4]. Such concepts appeared at the time of the formation of the first human communities and remain to this day.

Accordingly, according to these concepts, the theories of the origin of the state in

legal science include: ancient Greek theory, ancient Indian theory, ancient Chinese theory, and theological theory.

According to the ancient Greek theory, and its founder was the ancient Greek philosopher Plato, the state appeared in the era of Zeus and the Olympian Gods, who divided all the countries of the earth. Attica (the territory of ancient Athens) went to Athena and Hephaestus, and the island of Atlantis went to Poseidon. At the same time, Athena and Hephaestus populated Attica with noble people and gave them an understanding of the democratic state structure. On Atlantis, Poseidon established a state in the form of hereditary Royal rule and fixed the foundations in laws. Plato also believed that for the organization of correct forms of earth life, it is necessary to imitate as much as possible the mythical cosmic-divine prototypes of human government. First of all, the device of Athens (where the philosophers rule), and second, the device of Atlantis (where the laws rule) [4].

According to the ancient Indian theory, the God Indra provided for a General cosmic and earthly order, as well as laws and customs (Ritu). They also maintained this order.

According to the ancient Chinese theory, there was an order in the middle Kingdom, an organization of power, rules of behavior based on the will of the divine Sky. At the same time, the Emperor is the bearer of power as the son of Heaven [4].

According to the theological (theocratic) theory (John Chrysostom, Thomas Aquinas, Jacques Maritain), the state was created by the will of God. One of the founders of this theory was Thomas Aquinas (XIII century). Power in such a state is eternal, dependent on religious figures and organizations. At the same time, everyone is obliged to obey the sovereign in everything. As for the existing inequality of people, it is determined by the divine will, which must be accepted and not resist the continuation of the power of God on earth. Disobedience to the authorities was regarded as disobedience to the Almighty. The main role in society is given to the Church and religious organizations, and due to their position and influence, the clergy have a significant influence on the formation of the corresponding public opinion. At the same time, the theological theory, like any dogma, cannot be directly refuted, as it cannot be directly proved, and the question of its truth is decided along with the question of faith [14, p. 214]. In modern conditions, this theory is enshrined in the official documents of the theocratic state-the Vatican city.

S. S. Alekseev noted that the theological theory is one of the most ancient, and its creators believed that the state exists forever by virtue of the divine will, and therefore everyone is obliged to submit to this will, obey it in everything [9].

The next concept of the origin of the state is called paternalistic and Patriarchal concepts of the origin of the state (Plato, Aristotle, Confucius, Robert Filmer, Nikolai Mikhailovsky). These concepts are based on the worldview of the emergence of the state based on one of the cells of society, as a family, and, respectively, public and state authorities are derived from the power of the father or the ancestor of the family. These concepts also include theories of the origin of the state, namely: paternalistic theory, Patriarchal theory, and maternal theory.

According to the paternalistic theory (from the Greek pater - father), the state is created from the family. The famous Chinese thinker and philosopher Confucius, defined the Emperor as "the son of Heaven" and the executor of the will of Heaven, at the same time likened the power of the Emperor to the power of the head of the family, and the state - a large family. The government is built, as the management of the family - based on the norms of virtue, care of senior on Junior, filial devotion and piety of the

younger towards the elder. This theory was used by Russian scientists and was justified by the public consciousness, when the basis of traditional views was the belief of the General population in the "Tsar-father" and in any authority as "father" [4].

In turn, in the Patriarchal theory (from the Greek. patriarchesot - ancestor), the state is considered as a natural stage of formation and development (expansion) of the family, while the concept of the state is not equated with the concept of family. The famous Greek thinker and philosopher Aristotle considered the state as the best, complete form of social development according to the family-village-state scheme, which is formed and developed in order to achieve the common good. He also believed that it is not the primacy of the state before the family, but about the person as a political entity, that is, in the most developed form, the state is the communication of free and equal citizens [4].

The organic concept of the origin of the state (Herbert Spencer, Auguste Comte, Rudolf chellen) is based on the idea of the state as a living organism, a product of social evolution (similar to biological evolution), and therefore a more important organ corresponds to a higher status and more significant power in the organic system of society and the state. Accordingly, in social organisms in the process of struggle (including wars), natural selection occurs, on the basis of which specific States are created, governments are formed, the management structure is improved, and this social organism absorbs its members [4].

The natural-legal (contractual) concept of the origin of the state [15] (Epicurus, Hugo Grotius, Thomas Hobbes, John Locke, Louis de Montesquieu, Jean-Jacques Rousseau, Alexander Radishchev, Thomas Jefferson) is based on the origin of the state on the basis of a contract. Thus, Epicurus pointed out that "justice, which comes from nature, is a contract of utility - in order not to harm each other and not to suffer harm", and therefore the state arose as a result of a social contract on the rules of cohabitation, according to which people transfer part of their rights inherent in their birth to the state as a body representing their common interests, and the state, in turn, undertakes to ensure human rights.

The natural-legal concept also includes theories of the origin of the state, such as the theory of Hugo Grotius (the state arises as a result of a contract of people (their will), the theory of Thomas Hobbes (the state arises from the requirements of natural laws that encourage people to conclude a contract to establish a state (sovereign General power), keeping people in fear and directing their actions to the common good), the theory of John Locke (the state arises to ensure the inalienable natural right of a person to his property, life, freedom, property, etc.), the theory of Jean-Jacques Rousseau (the state arises as an agreement concluded to overcome social inequality and create state power and laws that will be obeyed by all, that is, the creation of a Political body (community) as a true contract between peoples and rulers) [4].

According to the violent concept of the origin of the state [16] (Eugene Durin, Ludwig Gumplovich, Karl Kautsky, Franz Oppenheimer), the emergence of the state is carried out as a result of violence (internal or external), for example, by conquering weak and defenseless tribes with stronger and more organized ones, that is, the state is not the result of internal development, but an externally imposed force, an apparatus of coercion.

The violent concept also includes theories of the origin of the state, such as the theory of E. during (internal violence; based on internal violence, the political system (the

state) is generated, and as a result of such violent enslavement of some by others, property and classes also arise), the theory Of L. Gumplovich (external violence; the state arises as a result of the aspirations of the people (flock, community) to expand its influence and power, to increase their well-being, this leads to war, and as a consequence to the emergence of a state structure and appearance of property and social stratification of the population), the theory of Karl Kautsky (the state appears as an apparatus of coercion of the conquerors (winning tribe) over the vanquished, the further development of society, the state transformed into an instrument of universal harmony, to protect and ensure the common good of both strong and weak) and others.

According to the psychological concept of the origin of the state [17] (Lev Petrazhitsky, James Fraser, Sigmund Freud, Gabriel Tard, Nikolai Korkunov, Fyodor Kokoshkin, Mikhail Reisner), the emergence of the state is due to the properties of the human psyche, the individual's need to live in a collective, his desire to search for authority, whose instructions could be guided in everyday life, the desire to command and obey. At the same time, the state is a product of resolving psychological contradictions between proactive (active) individuals who are capable of making responsible decisions, and the passive mass, capable only of imitative actions that execute these decisions.

The psychological concept also includes theories of the origin of the state, such as the theory of T. Bashtim (the transition to the state and the development of various social and political-legal institutions are based on primary factors, such as discovery and imitation, as well as adaptation as a way to resolve social contradictions), the theory Of Petrazhitsky (based on the imperativeness of emotions, which are a state of will of the individual and experienced as a possible pressure towards a certain behavior, and the attribution of these emotions is that such obligated behavior of one person is imposed on another, and the state is considered at the same time as "projections" of legal experiences, as "phantasms" of the psyche), Korkunova (the basis of all law is the individual consciousness, and the basis of power in the state is not simply the will, and the strength that comes from mental people's ideas about their dependence on the state, that is, power is power, is not due to the will of the ruling and consciousness based on subject) and others.

The next concept of the origin of the state is called the materialist and Marxist concepts of the origin of the state [18].

According to the materialist concept of the origin of the state, the emergence of the state is the result of changes in socio-economic relations, the mode of production, the emergence of classes and, consequently, the struggle between them. At the same time, the state acts as a means of oppressing people, maintaining the rule of one class over others.

The materialist concept also includes theories of the origin of the state, for example, max Weber's theory (the emergence of the state is characterized through the development of the economy based on three major divisions of labor, related to the improvement of tools, the emergence of surplus products, forms of ownership (collective, private). At the same time, private property is the basis for allocating public power, which did not coincide with society and did not Express the interests of all its members). The materialist concept of the origin of the state also assumed that due to fundamental changes in the economic sphere, there are significant changes in the material conditions of society, which leads to the emergence of corresponding classes and the domination of one class over others.

According to the author, the materialistic concept also includes the potestary (from Latin potestus - power, power) theory of the origin of the state (crisis theory) [4; 19,

p. 28-31] (Gordon child, Anatoly Vengerov, Lyudmila Morozova) is based on the impact of climate change and environmental crises that led to the destruction of the natural environment of people, to their transition to a productive economy ("Neolithic revolution"), that is, to the formation of agricultural, pastoral and other communities of people, the division of labor and new types of labor, obtaining surplus products, social stratification of society (the appearance of estates, classes), the emergence of private property, the emergence of government bodies, etc., which characterize the process of emergence of the state.

According to this theory, the state as an organizational form of society arises as a result of the "Neolithic revolution", that is, in the process of humanity's transition to a productive economy, changes in socio-economic relations in society, the formation of governing bodies, etc.

Based on these provisions, we can agree with the opinion of A. B. Vengerov that the materialistic, class-based approach is preserved in the potestar theory [20].

The Marxist concept of the origin of the state (Karl Marx, Friedrich Engels, George Plekhanov, Vladimir Lenin) is also called materialistic (Marxist, historical-materialist, dialectical-materialist) and class theory of the origin of the state [21], which is based on the emergence of the state is associated with the emergence of private property, the split of society into classes and class contradictions, and "the state is the product and manifestation of irreconcilable class contradictions". According to Marxist theory, political power in the state belongs to the economically dominant class, as an elite that uses this power in the interests of the ruling class and applies a consistent materialistic approach.

In the Marxist concept, it is customary to distinguish several understandings of the state. According to Karl Marx, the state is an organ of class oppression of one class by another. By F. According to Engels, the state arose out of the need to keep the opposition of classes in check; the state is exclusively the economic ruling class and is essentially a machine for the suppression of the oppressed, exploited class. By V. I. According to Lenin, "the state is the product and manifestation of irreconcilable class contradictions", the state arises where, when, and insofar as class contradictions cannot be objectively reconciled [9].

In addition to these concepts and theories of the origin of States in the scientific literature and materials of Internet resources, there are other theories of the origin of the state (patrimonial theory, the theory of absolute spirit, economic theory, diffusion theory, space theory, sports theory, elite theory, voluntaristic theories, and others) that require independent consideration, and will be the subject of the second part of the author's research on this topic.

Thus, this research can be understood as an analysis of theoretical positions, scientific approaches and the author's understanding of some controversial issues about the main concepts and theories of the origin of the state.

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