

## STATE AND LAW AT THE PRESENT STAGE OF DEVELOPMENT SOCIETIES

TECHMIND-2021

**Shukhrat Bagirov**

Master's student at  
Tashkent state university of law  
[shuhratbagirov@gmail.com](mailto:shuhratbagirov@gmail.com)



### Annotation.

At the present stage of the development of society, the peculiarities of the state and law are highlighted. the principle of the rule of law is illuminated by practical examples, theoretical analysis. A number of examples were also presented during the scientific work.

### Keywords.

State and law, legal state, rule of law, political system

State and law are interrelated concepts that have passed the evolutionary path of their development. Scientists still can not determine exactly what came first: the law or the state? If the law, then on what territory did it operate, and on what territory did it cease to be relevant; if the state, on what basis did it arise and on what pillars did it function before giving a certain area the status of a state?

The concepts of law and the state are closely intertwined, and this interweaving resulted in the term "legal state". Such a state is an organizational and political form (structure) of the exercise of State power, where priority is given to the fundamental norms of law, as well as fundamental legal principles that are aimed at protecting human rights, their legitimate interests and freedoms.

In contrast to the separate interpretation of the concepts of state and law in terms of difficulties as to which of these postulates is higher in its status, content and meaning, the use of the term "legal state" implies a greater emphasis on the legal component. Such a state is based on universally recognized principles of law and recognizes the highest value of a person, his life and dignity, as well as a guarantee for the realization of his fundamental rights in the course of life.

According to A. Zhelonkin, the interaction between law and the state is based on dialectics, which is expressed in changing the essence of the state by narrowing or expanding its functions (the transition of quantitative changes to qualitative ones), in the development of forms of interaction between these institutions, mediated by the law of unity and the struggle of opposites, as well as in the content of a separate state-legal system, which has elements of the new and the old in its structure (negation of negation) [1, p.3].

On the question of the relationship between the state and law as cause and effect, separate and general, there are no unified ideas in the scientific community. So, on this issue, V. Kulapov identifies three main models of the relationship between the state and law:

1. Totalitarian (statist), in which the state creates law and expresses its will in it.
2. Liberal (natural law), when the law, being a product of natural human development, determines the state and the positive legislation adopted by it.
3. Pragmatic, where the law is formed by the state, but it is bound by it in its activities, since the content of the law depends not so much on the state, but on a whole complex of objective and subjective circumstances that reflect the uniqueness of civil society [2, p. 194].

Considering the state and law from the point of view of a systematic approach, it can be noted that they are elements of the political system of society. In this aspect, the study of state forms and social phenomena is mediated by the knowledge of the essence of the category "political system". Despite the fact that the political system consists of such organizations as the state,

political parties and other complex entities, the law in this system can be considered as a "cement", which, penetrating all the links of the political system, firmly binds them together and ensures their proper functioning. According to S. S. Alekseev, "it is precisely this characteristic of the political system, when its diverse elements are distinguished, including the functional-binding, organizing element-law, that makes it possible to interpret the political organization of society as a complex, organic system, and not as a simple summative community of socio-political institutions" [3, p. 132].

N. Nenovsky once justified the position that the state and law are a single "systemic whole"; they themselves are its constituent parts, within this whole their interaction as subsystems takes place. Such unity, however, not only allows, but also assumes the relative independence of the state and law, interacting with each other and with other parts of the superstructure, acting as subsystems of other systems (for example, law is included in a single system of social norms). In this perspective, the relationship between the state and the law, from the point of view of unity, acts as a static one. If we analyze the interaction between them, then the relationship manifests itself in dynamics: as the "internal" dynamics of the whole with external statics. In particular, the impact of law on the state is highlighted, first, as a "closed" system (the impact on the internal organization of the state, on its functioning); second, as an "open" system, through "external" activities, when the state implements its managerial role in society [4, p. 118].

It must be recognized that the relationship between State and law depends on the political regime in force in a given State. It is known that the political regime reflects the key moment in the existence and functioning of the state, its state as an institution of political power, its origins, organization and manifestations, the features and correlation of class, national and general civil interests expressed in the state, the mechanism of formation and action of power.

The dependence of the State on the law also has various manifestations. First, it is revealed in the internal organization of the state, the connections between its individual links. The law forms the structure and interaction between the elements of the mechanism of the state, creates guarantees against the concentration of state power in one of its branches, regulates relations between individual state bodies, and in the federation - distinguishes the subjects of competence between the center and the subjects of the federation. Secondly, dependence is revealed in the external manifestations of the state, in the role that it plays in public relations. The law affects the state in its relations with the population, determining the limits of the state's influence on the individual, its rights and obligations, and legal guarantees on the part of the state. At the same time, the law gives the activity of the state a legal character, introduces its activities into the legal framework, defines the limits of state interference in private life, the limits, forms and grounds for the use of state coercion. However, it must be remembered that the law can only limit the state in principle, prevent its arbitrariness, provided that the government itself goes to a certain self-restriction [5, p. 3].

The functional unity of law and the State also presupposes the concept of a State governed by the rule of law, in which the State acts only on the basis of law and is limited by established limits. The law represents the consolidated will of civil society. Consequently, the state and the law act together within the framework of civil society, which allows us to speak about the presence of an integrative state-legal influence in modern society.

As D. Mironov rightly notes, "the principles of the rule of law show the degree of immersion of the state in the sphere of law, the compatibility of its organization and activities with the ideas of law. This immersion of the state also means the involvement of law in the sphere of state existence. With this, the law becomes resilient, its normativity and general obligation are strengthened. At the same time, all legal matter related to state life begins to "work" under the supervision of the principles of legal statehood" [6, p.4].

Thus, the rule of law is a special form of organization of political power in civil society, in which natural human rights are recognized and guaranteed, the division of state power into legislative, executive and judicial branches is actually carried out, the rule of law and the mutual responsibility of citizens before the state and the state before citizens are ensured.

M. Denisenko and V. Turova, in turn, believe that "the rule of law is based not only on the above, but also on the mechanisms of precise compliance with the hierarchy of normative legal



acts, i.e., preventing the prevalence of acts of lower legal force over acts with higher legal force; independence of various branches of government, including the judiciary, since the courts are endowed with extensive competence, including checking the compliance of decisions of state bodies and actions of officials with the legislation; uniformity of judicial practice, since the courts, when deciding on certain categories of cases, should be guided by specific norms of law, implementing their correct interpretation; also in this case, we should talk about the real opportunities of citizens to participate in the legal regulation of public relations, which within reasonable limits allows us to talk about a democratic society" [7, p.6].

The rule of law, as noted by E.Tomilina, A. Opokin and A. Golik, presupposes a certain level of individual and social morality. Such a state is based, first of all, on a right that objectively needs a moral justification. The law does not regulate all social relations, but only those that represent the greatest social significance. Niches that are free from legal mediation are occupied by other social regulators, primarily moral norms. Big problems arise in a society where law and morality are seen only as obstacles. By strengthening morality, society strengthens law, not the other way around. Only in this way will the path to the rule of law become much shorter [8, p. 5].

Questions about the rule of law, its tasks, goals and current problems from the earliest epochs are among the fundamental and acute discussions. This is due to three reasons:

- first, these issues directly and directly affect the interests of various strata; classes of society, political parties and movements;
- secondly, no other organization can compete with the rule of law in the variety of tasks and functions performed, in influencing the fate of society;
- third, the rule of law is a very complex and internally contradictory socio-political phenomenon [9, p. 5].

In conclusion, I would like to note that the state and the law, representing a well-coordinated mutually complementary mechanism, acts as a fundamental indicator of the level of democracy. A State in which the rights of citizens and non-citizens are respected, where the rule of law, the principles of social justice and the common good are at the forefront, is doomed to rapid development.

The above analysis of the points of view of scientists on the relationship between the state and law allows us to conclude that in modern science, the normativist approach to the problem prevails. Despite the fact that in any study in the field of state and law, it is inevitably necessary to touch on their relationship from one side or another, to one degree or another, at present, the problem of the relationship between state and law must be approached from the position of generalizing the laws of social development and the practice of building a rule of law state.

The rule of law state becomes developed gradually, as a certain level of civilization and democracy is reached. It ensures organization in the country on the basis of the rule of law and spiritual factors and implements the main thing that civilization gives people – democracy, economic freedom, the so-called "freedom of the autonomous individual". In such a state governed by the rule of law, all its institutions and structures develop, and their social potential is revealed. Moreover, the state does not change and improve by itself. It is transformed and adapted to changing conditions by people of different eras. Therefore, there is every reason to consider the rule of law as one of the most significant achievements of world history and civilization.

## References

1. Желонкин А.Д. Взаимосвязь государства и права как основа интегративного государственно-правового воздействия в современном российском обществе. Известия Байкальского государственного университета. 2017. Т.27, №2. 10 с. Электронный ресурс: <https://cyberleninka.ru> [Дата обращения: 09.03.2021]
2. Кулапов В.Л. Теория государства и права: учебник / В.Л.Кулапов. - Саратов: Сарат. гос. акад. права, 2011. - 486 с.
3. Алексеев С.С. Общая теория права: в 2 т. / С.С.Алексеев. - М.: Юрид. лит., 1981. - Т. 1. - 361 с.
4. Неновски Н. Единство и взаимодействие государства и права / Н. Неновски. - М.: Прогресс, 1982. - 151 с.

5. Федоровская М.Ю. Соотношение государства и права в современной России: состояние проблемы. Вестник ОГУ №3 (109). 2010. 4 с. Электронный ресурс: <https://cyberleninka.ru> [Дата обращения: 10.03.2021]
6. Миронов Д.Н. Правовое государство: происхождение идеи и признаки правового государства. Вестник Бурятского государственного университета. 2(1) / 2015. - 7 с. Электронный ресурс: <https://cyberleninka.ru> [Дата обращения: 11.03.2021]
7. Денисенко М.В., Турова В.Е. Правовое государство. Социология и право. №1 (12). 2012. - 7 с. Электронный ресурс: <https://cyberleninka.ru> [Дата обращения: 12.03.2021]
8. Томилина Е.Е., Опокин А.Б., Голик А.А. Правовое государство: теоретические и практические аспекты. Государственный университет управления. 2015. с.6. Электронный ресурс: <https://cyberleninka.ru> [Дата обращения: 14.03.2021]