

AMURCON 2021
AmurCon 2021: International Scientific Conference**CONSERVATISM AND CONSERVATIVE LEGAL THINKING:
THE ERA OF PUBLIC SYSTEMS' DIGITAL TRANSFORMATION**

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Abstract

The article implements a conceptual and legal discussion of the content of the concept of "conservatism," presents the authors' interpretation, and also suggests a semantic model and structure of conservatism as a social phenomenon. The authors pay special attention to a specific type of manifestation of conservatism as conservative legal thinking and give the main axiological characteristics of the latter. Separately, the paper analyzes the evolution of conservative-legal thinking in the context of the processes of digital transformation of law, the state, and public-power institutions. The adequacy and effectiveness of the conservative approach to the comprehensive system formation of socio-normative regulation of ambiguous processes of digital technology development are substantiated. In addition, the paper examines the social significance and role of conservative legal policy in a harmonious socio-normative regulation of the introduction of digital technologies into the socio-political and socio-economic life of society. A traditional type of thinking and behavior can be the basis for the approaches developed to regulate digital reality. It is within the framework of a conservative approach combining moderate innovationism with the most useful and historically selected patterns of human activity that it is possible to form doctrinal provisions and specific norms with the hugest regulatory potential and minimal risk.

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Keywords: Conservatism, digitalization, legal system, tradition, transformation

1. Introduction

The term "conservatism" has now become very broad and meaningfully blurred. This term refers to a whole range of phenomena and processes that sometimes contradict each other without forming any common semantic unity, having no shared features and characteristics. The latter is especially characteristic of various derivatives of "conservatism," for example, conservative ideology, conservative politics, conservative party, conservatism in relations, conservative principle, and the like.

Gadzhiev (2013), rightly notes in this regard that:

conservatism is not just a political program of a particular party or a political principle. It is a system of views on the surrounding world, a type of consciousness and political-ideological orientations and attitudes, is not always associated with specific political parties. (p. 64)

Of course, conservatism, as a type of thinking and, in particular, conservative legal thinking, is a harmonious and consistent set of ideas, principles, values, and attitudes.

Conservative legal regulation is also essential for the socio-normative regulation formation in the modern era of public systems' digital transformation. These are primarily because the discourse of instability and uncontrollability of complex systems is actively developing within the state legal practice framework. So, in economic, political, legal, and other spheres of life, theories of instability, risk-taking, situatedness have become dominant, and management technologies based on conventional and irrational choices have begun to prevail in public administration. Conservative thinking is supposed to reduce this instability and negative expectations from the future, which concentrates on the innovative elements and traditional foundations of social systems harmonization.

Generally speaking, the introduction of digital technologies took place in three stages. Scholars associate the first wave with routine, digital and robotic technologies, developed and implemented to replace the same type, routine manual, industrial, office, and other work (Greenfield, 2018). Then expert and digital analytical systems began to be developed to ensure the collection of an enormous amount of information, processing, and use for making managerial decisions. This stage was associated with autonomous systems and digital algorithms development that provided advisory functions. During this period, the imagination drew pictures of "mixed teams" of human and automated, who are working to achieve fundamentally new goals, but "set exclusively by the people who are part of this team".

The third wave, which humanity is experiencing today, is associated with the transfer of administrative (executive) functions to machines and complex algorithms, more precisely, when performing complex tasks and processing various data, modeling diverse scenarios, and calculating possible response trajectories. Automated algorithms and artificial intelligence systems have imperceptibly crossed the line between a purely expert, advisory mode of functioning to the implementation of administrative functions. According to many analysts and experts in artificial intelligence system development, a new era of Mankind will begin. It will become possible when the process of "self-organization of machines" (machine phylum) occurs and when all the upper-mentioned

functions, performed by various digital technologies, are integrated into one autonomous system (Delanda, 2018).

2. Problem Statement

Conservatism is a complex and multilevel phenomenon that does not convey its content only by a specific type of consciousness. Conservatism as a social phenomenon has a particular structure and different levels that must be mutually coordinated or harmonized. Otherwise, we will be dealing with pseudo-conservatism. Professor K.S. Hajiyev's broad understanding of the concept made us expand its theoretical and methodological grounds and interpret conservatism as a specific mental activity existing in legal, political, economic, cultural, and other spheres of society.

This broad interpretation as a particular type of mental activity allows us to form the structure of this phenomenon, reflecting both axiological and normative and behavioral aspects. As noted earlier, there must be agreement or semantic harmony/integrity between the elements. It is the integrity that makes it possible to classify and then typology this or that phenomenon of the legal life of society as conservative. It equally forms analytical tools for pseudo-conservative phenomena and processes recognition, which are such only in name, and not in meaning and content.

3. Research Questions

We treat conservatism as a social phenomenon that has been formed in the course of social development and refers specifically to the social type of thinking and acting. Therefore, its so-called "private interpretations" (for example, a conservative person, conservative habits, a conservative family, and the like) are considered social metaphors, value judgments, or everyday clichés.

We can point out the following elements in the structure of this phenomenon:

- 1) Axiological cross-section of conservatism, which reflects a set of ideas, values, images, and attitudes classified as conservative;
- 2) A normative cross-section fixing the type-forming rules, norms, and standards of a specific people's mental activity (for example, a conservative legal approach in the evolution of the national legal system or the improvement of law-making activities);
- 3) A praxiological cross-section that captures the main styles of public behavior and models of relationships in the personality-society-state system (for example, conservative models of public-power relations between the state and society).

Such a structural analytical model allows, from our point of view, to present a comprehensive study of this social phenomenon and distinguish the conservative type from other types of mental activity. For example, within the framework of the history of legal and political doctrines, this toolkit is quite successfully used to classify the latter, containing ideological, programmatic, and behavioral blocks. Similarly, we can characterize a particular legal doctrine more meaningfully as conservative. For example, conservatism is expressed not only during the presentation of the ideological platform of the legal doctrine but in the proposed regulatory solutions, formed norms, principles, high goals, regulatory norms, and reflected in specific programs and activities implementing this program. It can also be pseudo-

conservative (for example, when the ideological foundations and principles do not correspond to regulatory decisions and the practical actions program).

4. Purpose of the Study

In this paper, we consider conservatism as a particular social type of thinking and action focused on ensuring the gradual evolutionary development of social systems. This type of thinking and action has a specific structure, expressed in value-normative, institutional and practical elements. We propose to discuss the latter based on such a distinctive type as conservative legal thinking, giving its main axiological characteristics. These will allow, in theoretical and practical terms, to consider not only its evolution in the digital era of the transformation of law and the state; but also to substantiate the adequacy and effectiveness of the conservative approach to the formation of a comprehensive system of socio-normative regulation of ambiguous processes of digital technology development.

5. Research Methods

Building a methodological basis to research conservative legal thinking in the modern era takes a socio-cultural or civilizational approach to law, politics, and power (Blokker, 2020). When exploring the legal life of an individual, an ethnos, a nation, or any other socio-cultural unity, first of all, it is necessary to understand and learn the dissected system of actual value preferences that determine the legal worldview, legal awareness, and legal thinking.

The system of value-normative preferences gives a value hierarchy in which legal values are arranged in a definite order. Justice, objective and subjective law, personal freedom, public and private interests, accuracy in the performance of obligations may occupy a specific place in this hierarchy or may not exist at all (Ife, 2016). Only the value of justice can be an exception since the idea of law necessarily presupposes it.

However, it is significant to remember the limits of justice as a universal category set by personal ethnocultural experience.

Therefore, we base the theoretical and methodological foundations of the research on the following: we need to make the philosophical, methodological, conceptual, and practical transition from exclusively ideal legal models for the regulation of public relations to the consideration of specific cultural forms, traditions, and dominants in the development of legal thinking and practice that support cultural-legal features and reproduce legal integrity (Gee & Webber, 2019).

In addition, the present study focuses on the complementarity principle. It serves to understand the specifics of the legal culture of a multiethnic society, stable ethnocultural forms and models of personal relationships, and their groups in the state-legal sphere. On the one hand, the existing legal and political institutions, structures, mechanisms, and regimes largely determine legal activity, nature, and orientation. On the other, they determine the effectiveness and stability of judicial components and complexes of national statehood by "subjective factors."

For example, a cycle of theoretical-methodological and historical-legal works by Maltsev (2011) and others are established on this provision. We consider that the nature of value cognition is not rational

when studying theoretical and methodological basis. The value-normative structures of the cognizing subject come to the fore, and consequently, the cognitive process turns into understanding.

In addition, the theoretical and methodological foundation of the research is essentially based on developments in the field of state and law theory, sociology of law, philosophy of law, and methodology of legal science, belonging to domestic and foreign scholars. The authors use developments from such areas: the phenomenology of law, legal hermeneutics, anthropology of law, and the theory of national statehood, and construct the research based on universal, general scientific, specific, and private-scientific methods.

Considering the specifics of conservative legal thinking, we should remember that the main characteristic of any legal institution, any legal system, is the culture of that socio-cultural education, of which this or that institution is a part. In the language of modern hermeneutics, culture should serve in a "condensed," "concentrated" form as a context for the interpretation of any legal constructions - from ideological to normative (Ovchinnikov, 2002). It is impossible to make a complete impression of structural and functional integrity without knowledge of the peculiarities of the legal culture and the legal mentality of the people whose history has formed these constructions.

6. Findings

6.1. Key axiological characteristics of conservative legal thinking

Due to the limitations of the article, we will consider several particular issues. Namely, we will highlight the significant axiological foundations of conservative legal thinking. First of all, it is concentrated on combining the legal traditions of a particular society with the inevitable processes of renewal, the transformation of legal institutions, legal regimes, and forms of legal activity. Consequently, conservatism as an essential phenomenon is universal, but its specific manifestation is always unique since it has a socio-cultural dimension. In this reading, any institution and shape is formed and operates within a definite legal and cultural environment, realizing the goals and objectives associated with this socio-cultural integrity (Erlihson & Vassilyeva, 2018).

That is why it is incorrect to characterize conservative legal thinking as an attitude of thinking and action focused on countering any changes, as negative thinking concerning innovative processes, socio-legal renewal of society, and the like. According to the pre-revolutionary lawyer and classic of conservatism L.A. Tikhomirov, conservative legal thinking is not focused on conservation or stagnation (preservation of the socio-legal status quo), but on the contrary, on the evolutionary development of the state-legal organization of society. But the program of this conservative development has its specifics. It is "a development that does not renounce the past, but assumes and relies on traditional cultural and historical experience" (Ovchinnikov et al., 2009, p. 19).

In this way, the conservative-legal activity differs significantly from fundamentalism and traditionalism. The latter have the regressive transformation orientation on social-legal life. They prioritize restoration of the original universal legal traditions, lost in the past (depending on the social system, each has such a golden age of ideal socio-legal development) forms and models of legal structure, nature, and orientation of public relations (Guenon, 1997). And these entail the radicalization of modern

social organization and a negative attitude towards reforms or projects to improve legal regulation (Bilionis, 2005). At the same time, conservatism "does not require the preservation of tradition unchanged no matter what, it only seeks to introduce these changes into the framework of the "natural development" of the tradition itself" (Femia, 2012, p. 229).

Moreover, one of the main program provisions of various legal and political doctrines was the conservative transformation of the public legal life of society. Its focus was on the adequate and organic cultural institutions of power, state, law, concrete historical political and legal forms of organization of relations formation that meet the interests and values of society. Therefore, the phrase "conservative transformation" is a genuine programmatic setting of conservative political thinking: "The categorical opposition of tradition and modernization," notes Repnikov (2007), a researcher of conservatism, on this occasion, "arises if the concept of "modernization" is associated exclusively with borrowing foreign experience, and tradition means adherence to everything old and obsolete in socio-political and public life. In this case, instead of the concept of "conservatism," it is more appropriate to use the concept of "reaction" (p. 64).

In turn, the difference between conservative and modern axiological orientations becomes most evident in the value and significance of innovation as an engine/driver of progress. Thus, for traditional thinking concerning this matter, the principal value is socio-cultural integrity preservation and the principles of solidaristic legal development. Modernist orientation foregrounds utilitarian and other improvements of the individual. Therefore, in the first case, the rigid relationship between legal innovations and legal-cultural dominants of the development of the state-legal organization of society is justified. In the second case, there is an inextricable link between individual freedoms, legitimate interests, and needs, on the one hand, and programs for improving socio-economic and political-legal spheres, with the aim of a complete embodiment of the latter, on the other hand (Eidelman et al., 2012).

However, we should note that in the legal policy of the modern state, both the first and second axiological orientations, as a rule, balance each other, ensuring stable state-legal development. Most likely, today, we can talk about the dominance of any of them on the agenda of political and legal transformations. In this regard, S. Eisenstadt fairly notes that innovations and traditions do not oppose each other, but, on the contrary, in the right combination lead to the stable and organic development of society: real and symbolic events of the past, the order, and images of which are the core of collective identity, the definition of the measure and nature of its social and cultural changes (Eisenstadt, 1973). Traditions in such a society serve both as symbols of continuity or the definition of the limits of innovation. Moreover, it continues to be the main criterion of their legality and social activity."

In this regard, the rooting of new institutional-legal experience and the formation of innovative socio-political institutions occur through the dominant value-normative matrix in society and the "national prism" of successively reproducible cognitive attitudes and emotional and psychological readiness. These processes always appear during the evolution of the state-legal organization (Kelly, 2015).

Cognitive attitudes and emotional and psychological readiness allow with the lowest "social costs" to adapt institutional, instrumental or technological innovations to the existing political-legal activities and the value-normative structure of a particular society.

6.2. Conservative legal thinking in the era of digital transformations

As noted above, from the standpoint of conservative legal thinking, the existing legal institutions and the functioning of "legal complexes" (G.J. Berman's term), in addition to the positivist (formal-legal) dimension, also have concrete historical and socio-cultural dimensions. From this point of view, it is impossible to understand the specifics of their functioning, and even more so to optimize or introduce innovative elements into the functioning of legal institutions and organizations without taking into account both legal and meta-legal (legal traditions and customs, the historical context of the formation and development of institutions, ethnocultural dominants and pre-legal codes of interaction, and the like) foundations of the state-legal organization of a particular society (Singer, 2013).

The latter is especially important in the era of digital transformation of power and management activities, legal practice, qualitative changes in general legal and sectoral legal principles, regulatory models of behavior, and priorities of legal development. Conservative legal thinking in this aspect does not deny the objectivity, significance, and value of the introduction and use of digital technologies and other innovations of industry 4.0. Nevertheless, it defends the position of harmonious coordination of legal traditions and new ideas and their subsequent convergence ("drawing innovations" into the legal and cultural practices of society) (Walter, 2020). The latter ensures the continuous and sustainable legal development of society, the gradual qualitative renewal of the national legal system, the preservation of the sovereign and national-cultural characteristics of the latter (Sarria, 2018).

For example, despite all the criticism of the social rating system in the People's Republic of China, we should admit that this is one of the most successful experiments of integrating traditional, cultural, legal, and political institutions with modern digital technologies (Zhao, 2020). The basis for the social rating of a Chinese citizen, namely the raising or lowering criteria of the latter, are ethical standards (Confucian ethics), norms of customary law, and legal regulations of the state.

In other words, the entire traditional socio-normative complex acted as digital codes and parameters of the functioning of artificial intelligence systems that ensure political and legal order. In addition, the conventional "Chinese national-cultural basis" was the foundation for the introduction, training, and experimental functioning of the social rating system. These generally correspond to the strategy of the legal policy of the Chinese state. According to it, the development of all systems and institutions is implemented with "Chinese specifics," focusing on preserving this specificity "in the new millennium."

Moreover, we should note that the conspiratorial and legal position in the modern world is the most adequate to form complicated socio-normative regulation of complex and ambiguous development processes. It is also essential to implement end-to-end digital technologies, together with relations connected to the operation of these technologies.

This position is reflected today in many doctrinal and legal documents and normative legal acts. For example, within the framework of the work of the Legal Affairs Committee of the European Parliament, it is noted that it is necessary to "adopt a combined regulation. Its legislative provisions on liability (in the field of regulation of robotics and artificial intelligence systems - auth.) are jointed with non-legal norms in the form of guidelines and codes of conduct" (Buchanan & Dorf, 2021, p. 597).

The Russian theory of law also justified the need for a harmonious combination of the potential of all socio-regulatory systems (law, customs, traditions, morality, religion, and the like) in the normative regulation of ambiguous and rapidly changing relations. The existing strategic documents that form the legal principles and guidelines for the artificial intelligence systems development also record these conservative legal priorities. This approach ensures the evolutionary stability of the social system, the integrity, and sovereignty of the national and cultural space of Russian society (Nikitaev, 2005). It is no coincidence that such a "conservative-legal turn" in state-legal development is indicated by recent changes made to the Basic Law of the Russian Federation.

7. Conclusion

We believe that such a turn provides a harmonious combination of the traditional (national and ethnocultural) social system foundations and the necessary innovations associated with new social needs and interest formation. In addition, the close interaction of the conventional value-normative hierarchy and socio-normative regulators are becoming conservative national elements. They ensure cultural uniqueness, integrity, and the stability preservation of Russian society in the digital age. In general, focus on sustainability, continuity, and integrity, ensuring the national cultural space is a type-forming for conservative thinking.

The latter is also concentrated on the spiritual and moral coding of public institutions of power. Within the framework of the latter, the connection of state and legal activities is ensured not only with changing public interests and needs but also with responsibility for their actions, on the one hand, for following stable national moral standards and moral imperatives, and, on the other, for preserving the latter during objective processes of renewal in the institutional and normative organization.

The conservative position is significant in the political and legal dynamics since it is based on society's mental and cultural foundations. They are expressed in ethnic prototypes and stable ideas, as well as normative and value orientations that set patterns of the socio-political life of people and models of public-power interaction. These elements in socio-cultural studies are considered active and influencing actors that interact with specific practices and modern strategies. They determine the formative trends and directions of subsequent socio-cultural transformations.

Following the above, the need for the formation of doctrinal legal and regulatory acts, ethical standards, and moral requirements for the development, implementation, and operation of end-to-end digital technologies in the life of society is actualized. Moreover, it is necessary to develop principal areas for improving legal technology and the development of advanced lawmaking, which allow adequately coding fundamentally new relationships developing under the influence of the introduction and application of end-to-end digital technologies. Currently, it is vital for stable state and legal development in the XXI century to develop adequate conditions and requirements of the modern digital age, biological threats and environmental risks of the whole system of deontological codes and ethical standards, as well as a system of socio-legal control of hidden and shadow forms of activity associated with the development, implementation, and operation of innovative technologies, autonomous algorithmic systems, and the like. There is a convergence of socio-cultural and digital forms, practices, and ways of interaction in modern society under the conservative position. End-to-end technologies (Internet of things,

virtual and augmented reality) do not "displace" and do not "replace" socio-cultural images, representations, symbols, stable forms, and practices but, on the contrary, intertwine with them. As a result, both the former and the latter adapt and use each other's resources.

Acknowledgments

The research was carried out with the financial support of the Grant of the President of the Russian Federation No. NSH-2668.2020.6 "National-cultural and digital trends of socio-economic and political-legal development of the Russian Federation in the XXI century".

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