

Forms of traditional states and their historical specificity

by **Valentin Ya. Liubashits**

Dr. in Law Science, Professor, Department of Theory and History of State and Law, Faculty of Law, Southern Federal University, Ph.D. Law, Professor.

Abstract

The article addresses the forms of traditional states in the context of their historical origin and evolution, confirming that in the traditional legal order, land ownership generates political power distributed among several subjects, one of which represents the community and the other, the state itself. The authors show that the latter has not been adequately covered in the history of politics. It is confirmed, that in the era of traditional states, diarchy was a typical form of state organization, whose essence was the division of the prerogatives of power between the supreme ruler, which concentrated the priestly functions and the "vice-king", exercising all military and administrative power.

INTRODUCTION

The form of the state is a set of political and legal characteristics of the latter, arising from its nature, essence, and content [The general theory of state and law. 2007; Lyubashits V.Ia., 2015; Elizarov M.V. 2009].

If the functions and structure of the state, including the traditional state, reflect the essential characteristics of the latter, arising from its social purpose, role, and place occupied by the state in society, the form of the state, being determined by its essence, is also associated with the legal features of the organization of power. In other words, guided by the above interpretation of the categories of nature and essence of the state, it can be concluded that the form (unlike structure and functioning) is determined precisely by the legal nature of statehood and is associated primarily with the legal order existing in society, which predetermines its historical variability, on the one hand, and diversity of forms, on the other hand, even in the states occupying the same stage of evolution [Paprygin E.S. 2009; Chirkin V.E. 2001].

The above explains the well-known internal inconsistency of the category of the form of the state, repeatedly noted in the literature [Valentin Ya. Lyubashits, Nikolay V. Razuvaev, Alexey Yu. Mamychev, Andrey Yu. Mordovtsev, Magomedov R.M. 2018, p. 135-138]. On the

one hand, the form of the state as an aggregate of formal legal characteristics enshrined in the constitution or other legal acts does not always adequately correspond to the real organization of power in the state. On the other hand, the form of the state is highly significant for legal science, which, as we see, pays much attention to the typology of the state, built on the basis of its legal properties. At the same time, it is obvious that when considering a form of a state (and building typologies based on it), a number of methodological difficulties arise, the most important of which is associated with the lack of a single generally accepted definition of this category.

Review of theoretical and methodological approaches and research positions.

The literature, as a rule, either provides no detailed definitions of the form of the state, or these definitions are somehow reduced to listing its main elements, the number of which also lacks complete clarity (most often there are three elements - the form of government, the form of state structure, and the political regime).

L.I. Spiridonov, in particular, is guided by this cumulative definition [Spiridonov L.I. 2001, p. 49].

A similar definition is given by V.S. Nersesiants, who, however, makes, in our opinion, a very significant addition that the form of the state represents a comprehensive characteristic of the rule of law [Nersesiants V.S. 2006, p. 245]. Finally, some authors generally strive to avoid detailed definitions, in particular, A.V. Poliakov [2004, p. 555].

All the definitions available in the literature have a major drawback, namely, there is a clear tendency to confound formal and substantive (primarily structural) aspects of the state. In fact, if the form of a state is understood to mean its organization, or at least the organization of power, then, accordingly, any difference between the form and structure is lost. Of course, there is no doubt that the form of any phenomenon is always meaningful. Structure as an orderly interrelation of parts, elements of the whole, has a decisive influence on the form and, in turn, is determined by the characteristics of the latter [Kulkov M.O. 2005, p. 124-128]. However, scientific analysis suggests the need to distinguish between these interrelated but still relatively independent components of the studied phenomenon.

Often, the distinction between form and content is so difficult to draw that there is a temptation to differentiate the formal component itself, pointing out, along with the “external form”, the “internal form”, which is, in a broad sense, a ratio of form and content. Based on this approach, it is logical to assume that the internal form of the state is precisely its structure, while the legal characteristics will be the external form. However, it seems that such a terminological clarification does not solve all the problems, when considering the form of the state in general, as well as the forms of individual (especially traditional) states, in particular. This circumstance was emphasized by some lawyers ; it was not by chance that at the beginning of the last century L. Gumplovich made critical remarks about the theories of state forms existing at that time, regarding this concept as “shaky and unidentified as the definition of the concept of state” [Gumplovich L. 1910, p. 221].

The need to take into account the historical dynamics of state forms when building their evolutionary typology shall be considered much more significant obstacle to the study of the outlined problem. This is explained by the interrelation of the type and form of the state, noted by O.E. Nepomnin, who, using a specific example of the evolution of Chinese statehood in the first half of the XX century, suggested to identify four main characteristics of any state: gender, type, kind, and form. In this case, the generic indicator of the state is, according to the researcher, its formation characteristic, and the stage characteristic [O.E. Nepomnin. 1993, p. 334-361]. Referring to the example considered in this article, the generic feature of the Chinese state at the beginning of the XX century was feudal despotism, and the typological characteristic was absolutism.

To be fair, we should note, however, that the issue of typology and types of state, including its terminology, is totally unclear, apparently due to the fact that the historical-materialistic approach had too great impact thereon. In particular, O.E. Nepomnin considers absolutism, Bonapartism, and bourgeois democracy as “full-fledged” types of state [O.E. Nepomnin. 1993, 345]. “Bonapartism” meanwhile can hardly be considered a type of state. As is known, K. Marx considered it only a kind of political regime [Marx K., p. 334-361], caused by the specific historical situation of the bourgeois-democratic revolution of 1848, which led to the establishment of the regime of personal power of Napoleon III, which is fully shared by modern authors [Smirnov A.Iu. 2003; Volkov A.K. 2006]. Therefore, the absence of “Bonapartism” in China at the beginning of the XX century (except for Yuan Shikai’s short-term rule) indicates the inapplicability of such terms to the typological characteristic of statehood.

At the same time, the ideas expressed by the author, in our opinion, shed light on the relationship between the type and form of the state. Being one of the aspects of the state, forms have their own dynamics, the laws of which are determined by the general pattern of evolution of this type of state. At the same time, the specificity of the corresponding forms is due to the typological features of the state. Moreover, the very forms of the state, as well as their elements used to distinguish and describe in legal literature, are the ideal types with all their intrinsic characteristics [Davydov Iu.N. 2001; Schutz A. 2004].

This results in another extremely important conclusion, namely, the forms of the state are historical variable. In particular, each type corresponds to its own, inherent forms that have their own so-called content. Considering the above, the desire of many lawyers to single out the same elements of the state form for all historical periods seems unreasonable. Therefore, it can be concluded that the form of the traditional state, according to the historical specifics of the latter, will be the same form of government, which, in turn, is determined by the land ownership. Indeed, if a sign of territorial organization is irrelevant for a traditional state, then, it is hardly advisable to single out within the framework of the form of a traditional state such an element as a form of state-territorial structure. As for the political regime, when it comes to traditional states, the problem of the political regime becomes insoluble from a scientific point of view and causes many different judgments.

Particularly typical in this respect are the assessments given by historians to the political regime of the Roman Empire, especially in its first centuries, when there was a noticeable discrepancy between the officially declared republican form of government (see, for example, CIL, VI, 1527; 31670, etc.) and the de facto regime of the sole authority of Augustus and his successors [Mashkin

N.A. 1949]. Noting this circumstance, the remarkable Soviet historian S.L. Utchenko emphasized the need to study it on the basis of the socio-political essence, rather than of the formal legal characteristics of this phenomenon [Utchenko S.L. 1998, p. 286]. Meanwhile, it turned out very often that the characteristics of the political regime of the empire somehow paid tribute to the modernizing tendencies since they used terminology that applies only to modern states.

Thus, according to S.L. Utchenko, the main regularity of the evolution of the Roman state was “the transition from the forms of communal polis democracy to the totalitarian and leveling (sic! Allocated by us - author) regime of the empire” [Utchenko S.L. 1998, 308]. With such an approach, the Roman Empire turned out to be a direct predecessor and prototype of the totalitarian, fascist and communist regimes of the XX century. By the way, some of the leaders of such regimes (for example, Italian dictator B. Mussolini) were not averse to occasionally proclaiming themselves the heirs of Roman August [Nemirovskii A.I. 2007, p. 880-881]. In addition, the very opposition of the democratic republic and the totalitarian empire also causes great doubts. In fact, whether the Roman republic is really “democratic” even in the last century of its existence. In our opinion, with all its other virtues, in terms of democracy, it lagged behind not only modern states, but even the most developed ancient democracies, first of all, Athenian.

On the other hand, if we understand the “sociopolitical essence” as social base the state power rests on, then inevitably we will have to face a paradoxical, at first glance, situation when, with the transition from republic to monarchy, this base is both not limited, and, on the contrary, is expanding, since, unlike the republic, which relied on a narrow circle of indigenous citizens (Quirites) and those residents of the provinces who for special services received the rights of citizenship as an exception [Radzig S.I. 1959, p. 9-54], the empire (under Augustus) sought to rely on a wide layer of small provincial owners (mainly citizens) who did not possess the rights of citizenship [Marinovich L.P., Koshelenko G.P. 1994]. It is not surprising that already under the first Roman emperors, an active process of granting citizenship to provincial residents began. In particular, Claudius introduces representatives of the native nobility of Gaul and Spain to the Senate. The apogee of this process becomes the 212 Edict of Caracalla, which granted Roman citizenship rights to the entire free population of the empire [Elnitskii L.A. 1980, p. 162-171]. In this case, there is a temptation to present the political regime of the Roman Empire as almost a democracy (in any case, to declare it very close to that in its essential features). One of the first attempts of this kind was made in “History of Rome” by T. Mommsen [Mommsen T. 1997, p. 412], whose views find their supporters in modern historiography (in particular, L.S. Vasiliev [2007] expresses a similar point of view).

The truth seems to lie in a slightly different plane. In fact, as far as the political regimes inherent in traditional states are irrelevant to characterize modern states, so are the political regimes of modern times not applied to states of the traditional type. Moreover, in our opinion, there is every reason to doubt that the form of a traditional state includes the political regime as one of the elements. It is not by chance that ancient authors, beginning with Plato and Aristotle, considered democracy as one of the varieties of government.

Thus, according to the statement of Aristotle (Arist. Pol. V, 1; 1279a), "The state structure means the same as the state administration, the latter is personified by the supreme power in the state, and the supreme power is certainly in the hands of either one, or few, or majority" [Aristotle. 1983, p. 457]. As you know, Aristotle calls the first form of government a monarchy, the second - the aristocracy, the third - polity, relating tyranny, oligarchy, and democracy (considered by him as "deviations") thereto. Other political thinkers of antiquity, the Middle Ages, and the early modern period, from Polybius to Kant, shared these ideas (and similar terminology) [Polybius. 2004; Cicero. 1999; N. Machiavelli. 1997; Spinoza B. 1998; Locke J. 1988; Montesquieu Sh.L., 1955; Rousseau. J.J. 1969; Kant I. 1994]. It would be a great mistake to see this as the result of the underdevelopment of ideas about the political regime. In fact, here we are dealing with the merging of the form of the state and the form of government, extremely characteristic for the traditional state (and due to the peculiarities of the legal nature, essence, and content of the latter), entailing the almost complete identification of these categories, which G.V. Hegel insightfully noted [Hegel G.V.F. 1990, p. 311-312].

In our opinion, it would not be a great exaggeration to assert - given all the above - that the form of government in a traditional state was predetermined by the form of land ownership dominant in a particular society at the stage of its historical evolution. At the same time, according to I.M. Diakonov, already at the stage of early antiquity, there were at least three ways of development of society characterized by different correlation of state (palace-temple) and private-communal land ownership [History of the Ancient World. 1982., p. 18-40]. The first way, the civilizations of Ancient Mesopotamia, for example, followed, is characterized by the coexistence of the public and private-communal sectors as relatively independent and independent of each other, with the first one predominating.

The societies of ancient Egypt, China, and some other regions of the world followed the second way of development. A distinctive feature of this way was the gradual absorption of the private- communal sector by the state, which can be especially clearly seen in the example of Ancient Egypt [Weber M. 2001, p. 171-202]. Finally, the third way of development arising at the beginning of the first millennium BC was characterized by the absolute primacy of communal-private ownership of land, which is almost completely absorbed state ownership. This way of development was the one the ancient societies of the Mediterranean chose.

Of course, these three "general" ways of development of society and the state of antiquity cannot and should not overshadow the real diversity of the relationship between state, communal, and private ownership (including land ownership). Many historians have suffered from underestimating this diversity, which took place both in the West and in the

East, from Herodotus to our contemporaries, inclined, in particular, to regard all Eastern states as “despotism”. In this case, despotism was most often understood as a rigidly centralized state with the absolute and unlimited power of the monarch, a developed bureaucratic apparatus, etc. However, as O.A. Zhidkov and

N.A. Krasheninnikov rightly point out, not all ancient Eastern monarchies can be considered despotic [History of state and law of foreign countries. 1998, p. 14-15]. Given the above, already the ancient Eastern state had various specific monarchical forms of government. The forms of the traditional state (both in the East and in the West) in the Middle Ages and at the turn of the New Age are characterized by even greater diversity.

Nevertheless, we may definitely assert that with the advent of the above-mentioned three ways of development, the prerequisites for identifying the main forms of the traditional state are also emerging. Of course, the dynamics of these forms was determined not only by the ratio of private- communal and state ownership of land but also by the whole set of conditions (cultural, sociopolitical, etc.) that influenced the emergence and evolution of traditional statehood; however, land ownership was, in our opinion, the main and direct factor. In those societies, where the public sector was dominant, having absorbed the communal-private, the state was monarchical with a pronounced tendency towards its despotic variety. On the contrary, the republican form of government was typical in societies with dominant private and communal ownership, which included state land ownership.

Speaking of the dominant position of certain forms of land ownership, one should certainly not forget that this right did not remain unchanged in all traditional societies. Over time, it evolved, which was manifested in a change in the ratio of various forms of this law (state, temple, communal, private) and the emergence of new forms. In particular, even in the East, where, as we have seen, the right of state and communal property was initially unconditionally dominant, the right of private property appears simultaneously, which arose in antiquity and strengthened in the Middle Ages, which, of course, could not but affected the dynamics of the forms of the eastern state. On the other hand, in traditional Western societies, where the value of the right to private property was quite large from the very beginning, the supreme owner of the land was the state, which was first the civil community (polis), and then the Hellenistic, Roman, and Medieval monarchies.

Changes in the forms of the traditional state.

These circumstances make it possible, without a detailed analysis, to outline in general terms the dynamics of the forms of the traditional state in the East and the West, respectively. Thus, the main types of traditional eastern states are none; republic; monarchy (which, in turn, can be divided into patriarchal, despotic, and theocratic); and empire. The main types of a traditional western state, in turn, were: polis; medieval republics (oligarchic and democratic); monarchies, which were divided into patriarchal, seignorial, class, and absolute; empires which, in turn, are divided into centralized and decentralized. Of course, it would be a mistake to consider these forms successively replacing each other. For each specific traditional society, its own dynamics of state forms were characteristic, determined by the level of development of the respective society, as well as other factors. Nevertheless, there is,

in our opinion, sufficient reason to believe that the change in the forms of the state in different epochs is subject to well-known laws, determined by trends in the development of the rule of law.

The most difficult thing was in societies where communal-private and state ownership of land was in greater or less balance. In the traditional law and order, land ownership gives rise to political power, and, therefore, in such a situation, the distribution of power among several carriers was unavoidable, one of which represented the community, and the other - directly the state.

We will call this form of government diarchy, distinguishing it from both monarchical and republican forms. It seems that diarchy as a form of government of a traditional state did not receive adequate coverage in the historical and legal literature; meanwhile, it was no less typical than a monarchy or a republic.

The essence of diarchy as the form of government was the division of power prerogatives between the supreme ruler, who concentrated priestly (and in some cases judicial) functions, and the "vice-king", exercising the full military and administrative power. At the same time, the supremacy of the first was purely nominal, so, being bound by customs and ceremonies, he could not independently exercise his powers. As the research by H. Claessen showed, the central institution in all early states was the institution of the sacred king, mediating between subjects and deities [Claessen H. Y. M. 1978; Kradin N.N. 1995].

The ruler in his capacity was considered as a bearer of various kinds of goods, ensuring, in particular, the fertility of the land and the well-being of the community. Such, if we may say so, primary diarchy is an exceptionally characteristic and widespread form of the early state, not yet fully liberated from the remnants of the primitive system, even suggesting that the path from the pre-state polities to the traditional state lies through diarchy.

This was extremely depicted in ancient Indian monuments (for example, in Mahabharata and in Vishnu Smriti), where the king is regarded as the bearer of rain, which ensures the fertility of the earth [Vasilkov Ia.V. The 1979; Romanov V.N. 1978; Romanov V.N. 1991]. The conceptual parallel to the above is given by the ideas of the ancient Greeks of the Homeric epoch, which were reflected, in particular, in the Odyssey (see: Od., XIX, 111-114), where the king is also regarded as the bearer of abundance.

As M. Nilsson showed, these ideas date back to the Mycenaean era [Nilsson M. 1933, p. 220]. Other ancient peoples have similar beliefs [Eliade M. 1995, p. 48]. In its extreme terms, this faith endowed the supreme ruler with world-building functions, as was the case in ancient China, where the emperor was considered as a universal figure [Bokshchanin A.A. 1993, p. 273-274].

As it is well known, such ideas had a powerful impact on the further development of Chinese statehood, determining its specific (even for traditional states of the Ancient East) character, however, their initial and main function was nevertheless the legitimation of the emperor's power. Belief in the sacral, world-building qualities of the ruler had its reverse side. Along with the spread of such ideas, many cultures become convinced that the ruler as a bearer of divine grace (charisma) has no right to engage in earthly affairs, in particular, to

shed blood, since this may adversely affect its charisma and thereby deprive the ability to provide fertility. This finally leads to a significant restriction of the real power of the ruler holding only priestly and possibly judicial functions, while other powers - first of all, military and administrative - are transferred to his deputy [Razuvaev N.V. 2011, p. 9-14].

The rich ethnographic and historical material testifies to the exceptional antiquity of the institute of diarchy, which originates in pre-state societies being on the verge of the chiefdom, and exists in various manifestations up to the end of the Middle Ages. Thus, in the North Indian tribes - Naga, along with the leaders-priests, whose power was nominal, there were military leaders who managed the affairs of the tribe [Maretina S.A. 1967; Maretina S.A. 1980], although the authority of the first greatly exceeded the authority of the second. In the early state society of Benin in the XI-XIX centuries, many communities had two leaders at the same time — *odiovere* who was a sacred figure, and *onogie* who in turn obeyed the supreme ruler of the country (*oba*), whose power, however, was nominal [Bondarenko D.M. 1996; Bradbary R. E. 1951; Egharevba Y. U. 1949; Idem. A 1960; Sidahome Y. E. 1964].

Power in the nom city-states of Sumer, already in the Early State period (2750-2315 BC), was divided between the ruler-priest (*en, ensi*) and the military ruler (*lugal*). The latter was elected by the people's assembly initially for the duration of the war, but later his power became lifelong and hereditary [Poliakova G.F. 1983, p. 168-170]. A similar situation had developed in the states that existed in Greece and on the islands of the Aegean Sea in the II millennium BC. The supreme power there belonged to *Wanaka* (later Greek *ά*) [Chedwick Y. 1976, p. 62-64]. Proceeding therefrom, a similar title was applied to the supreme deity of the pantheon [Lindgren M. 1973, p. 151]; it can be assumed that *Wanaka* was (as well as the *ENSI* in Ancient Mesopotamia) the high priest of the corresponding deity. In general, we do not have information on the extent of power the *Wanaka* had, however, judging by the sources that remained, the real powers were concentrated in the hands of the military leader - *lavaget* [Effentere H. 1967; Lejeune M. 1965; Buzeskul V.P. 2003].

A similar division of powers remained in the archaic polis states of Greece, particularly in Athens at their early stage. As is known, one of the least clarified episodes is the abolition of the monarchical form of government and the transfer of power to the board of archons. Already, the ancient authors lacked consensus regarding both the causes and the very date of the liquidation of the monarchy. The prevailing point of view was and still is that according to which, even in the Homeric epoch (XI-IX centuries BC), "the king ... combined the duties of a military leader, ruler, judge, and priest" [Arist. Ath. Pol., 1938, p. 35]. However, over time, most likely in the middle of the VIII century, these powers were divided between three elected officials - *basileus*, *polemarch*, and *eponym* (whom Aristotle called *archon*).

Aristotle says that "the position of *basileus* ranked first and was inherited from fathers. The second was the post of the *polemarch*, in view of the fact that some of the tsars turned out to be weak in military affairs... The last was the post of *archon*" [Egorov A.B. 2006, p. 14].

It follows from the above that the *basileus* performed priestly functions, the *polemarch* - the military, and the *archont-eponym* - administrative. However, the assumption that the hypothetically reconstructed period of the sole monarchy in Athens is only a tribute to

tradition has the color of reason. In reality, the “primordial” (inherited from the Mycenaean era) form of government in Athens already in Homer's epoch was precisely a diarchy, characterized by the distribution of powers between the priest-ruler (basileus) and the warlord-ruler.

Gradually, with the development of Athenian statehood, there was a further fragmentation of powers and the emergence of new officials, which helped prepare the prerequisites for the transition to a democratic republican system in the VI—V centuries BC.

The dynamics of royal power in Early Rome (VIII-VI centuries BC) was characterized by pronounced originality, and its immediate result was the abolition of the monarchy as a result of the “aristocratic revolution” of 506 BC, which marked a more abrupt break with a prior tradition than in Athens. At the same time, as in other early-state formations of the ancient world, power in tsarist Rome was divided between three institutions: the national assembly, which was the general gathering of all full-fledged citizens, the senate, originally the council of tribal (and then communal) elders, and the king [Kofanov L.L. 2001, p. 38].

It should be noted that, on the one hand, the power of the kings received sufficiently comprehensive coverage both in the writings of ancient historians (primarily Titus Libya and Dionysius of Halicarnassus) and in modern studies. On the other hand, the scope of royal power, as well as the functions performed by the king, remain unexplained. All historians somehow believe that the king (rex) in Rome was primarily a military leader who possessed unlimited power during the period of military operations. In peacetime, the king had the prerogatives to submit draft laws for consideration by the public gathering [Gjerstad E. 1972, p. 14-24], as well as administrative and judicial powers. In addition, rex was the bearer of sacral power and performed priestly functions [Kofanov L.L. 2008, p. 143-145].

It seems that the question of the place of royal power in the system of political institutions of early Rome is directly related to another extremely important problem of the establishment of royal power as such. In this regard, of considerable interest is the hypothesis that the power of the rex in Rome initially was purely sacral, and its strengthening occurs as military and judicial-administrative functions are added to the sacral functions of the king-priest, which becomes possible along with overcoming the dualism of royal power (diarchy). Evidence of diarchy in tsarist Rome in its most ancient period is the augural rank of the kings (Cic. Div., I, 89) [Wissowa G. 1894; Roux J.-P. 1959].

An exceptionally important fact is that the augurs did not have the right to make sacrifices associated with the shedding of blood. All their rites were bloodless. In particular, this applies to the sacrifices to the god Termin, performed by augurs during the survey of fields and the allocation of land. Thus, the post of the augur was a kind of reminder of those times when the king, as the sacred ruler of the community, had no right to shed blood and had to observe ritual purity in all cases. It was not by chance that the sacrificial congregation, the pontiffs, whose head (pontifex maximus) played the same role in the ritual sphere that the “younger ruler” played in the political and administrative sphere, and, perhaps, was the head of this board.

Medieval state formations, both earlier and more mature, provide numerous examples of diarchy. In particular, we can observe this form of government in the Khazar Kaganate, headed by kagan, endowed with divine, world-building qualities. Not only the well-being of his subordinates (kuts) but also the maintenance of cosmic order directly depended on the actions of kagan [Idem. *La religion des Turcs et des Mongols*, 1984; Paskov S.S. 1987].

Accordingly, the most important requirement for kagan was the preservation of the purity prescribed by the ritual; that is why, the figure of his “deputy” (referred to as yabgu-kagan, kagan- beg or shad) was constantly present next to kagan. One cannot completely exclude the fact that the diarchy was formed among the nomadic peoples of Central Asia (Khazars, Turks, Oguzes) under the direct influence of Chinese examples. Indeed, in China, as a result of the development of similar ideas about the appointment of imperial power (as mentioned above), there is a tendency to strengthen the role of the chancellor (chengxiang) in the imperial palace.

However, already in the II century BC, emperors from the Han dynasty and especially vigorous Wu-di (141–87 BC) nullified chenxiang’s influence on public affairs and court life, which led to the final choice of the vector of further development in favor of the dynastic monarchy.

The diarchy in medieval Japan was quite stable, and, starting from the IX century, several specific options were tested, the most viable of which, as is known, was shogunate, which began to mature at the end of the XI century and finally formed by the XVI century. However, other models also deserve attention, in particular, the establishment of the office of chancellor, who concentrated all power under the virtually powerless emperor (since 888, representatives of the Fujiwara house have occupied this post on a hereditary basis) [History of the East. 2002].

In the XI century, with the spread of Buddhism in Japan, some emperors accepted monasticism and abdicated their throne, while retaining considerable influence in public affairs [Muller A. 2004, p. 339]. It is noteworthy that one of these ex-emperors, Sirakawa, stated that “only the waters of the Kamegawa River, dices, and monks from the Mount Hiei” do not obey him [Muller A. 2004, p. 340].

The post of the first minister (vizier) at the court of the Baghdad caliphs from the Abbasid dynasty was no less vivid and typical illustration of the diarchy. Formally, the caliph, as before, was the head of state, the absolute ruler, endowed with all the entire spiritual, secular, military, and judicial power. In fact, other persons (the vizier, the chief qadi, the head of the palace guard, etc.) begin to occupy this post instead of the caliph.

A similar process of loss of real power by the caliph (while maintaining the status of the head of state) took place in the Cordoba caliphate during the rule of Hisham II al-Muayyad. Under his reign, the role of the first minister (hajib) increased exclusively, which position for many years was held by the famous Mohammed ibn Abu Amir al-Mansur, who hold the caliph as a captive rather than a ruler [Muller A. 2004, p. 706]. However, due to the time of troubles that soon followed and the subsequent collapse of the Cordoba caliphate under pressure of

the Christian Reconquest, the tendency towards the formation of a diarchy had no chance to develop here

CONCLUSIONS.

In the traditional law and order, land ownership gives rise to political power, and, therefore, in such a situation, the distribution of power among several carriers was unavoidable, one of which represented the community, and the other - directly the state. We will call this form of government diarchy, distinguishing it from both monarchical and republican forms. It seems that diarchy as a form of government of a traditional state did not receive adequate coverage in the historical and legal literature; meanwhile, it was no less typical than a monarchy or a republic.

The essence of diarchy as the form of government was the division of power prerogatives between the supreme ruler, who concentrated priestly (and in some cases judicial) functions, and the "vice-king", exercising the full military and administrative power. The diarchy, in this case, seems to have the same reason as in all the above, namely, the conviction of the sacral character of royal power. These, as well as many other examples of diarchies in the medieval states of the West and East, make it possible to talk about the existence of a secondary diarchy along with the primary one, which is a kind of political relapse of this form of government under unspecific social-historical conditions.

References.

1. Aristotle. *Politics* // Works: in 4 volumes. M.: Mysl, 1983. V.4. P. 375-644.
2. Arist. *Ath. Pol.*, I, 3, 2—3: Aristotle. *The Athenian Constitution; The Eudemonian Ethics; On Virtutes and Vices*. Cambridge, 1938. P. 14.
3. Bokshchanin A.A. *Essay on the history of state institutions of the Chinese Empire // Phenomenon of Eastern Despotism. Governmental structure and power*. M.: Nauka, 1993. p. 273-333
4. Bondarenko D.M. *Chieftdom in Precolonial Benin // Early forms of political organization / Ed.*
5. V.A. Popov. M.: Nauka, 1996. p. 140-142
6. Bradbary R. E. *The Benin Kingdom and the Edo-Speaking Peoples of South-Western Nigeria*. London, 1951. P. 33.
7. Buzeskul V.P. *The history of Athenian democracy*. St.P., 2003. p. 35.
8. Claessen H. Y. M. *The Early State: A Structural Approach // The Early State*. The Hague. Paris, New York, 1978.
9. Chirkin V.E. *A modern state*. M., 2001. p. 135-137.
10. Cicero. *About the state // Cicero. About the state. About the laws. About old age. About friendship. About duties. Speech. Letters*. M., 1999. p. 65.
11. Chedwick Y. *The Mycenaean World*. Cambridge, 1976. P. 71.
12. Davydov Iu.N. *Weber's sociology of history // Weber M. Agrarian history of the Ancient World*. M., 2001. p. 26-28.

13. Elnitskii L.A. New epigraphic data (Tabula Banasitana) and Edict of Caracalla on Roman citizenship // WDI. 1980. № 1. P. 162-171.
14. Eliade M. Aspects of myth. M., 1995. p. 48 et seq.; Tumans H. opere citato. p. 134-135.
15. Egharevba Y. U. Benin Lawland Custom. Port Harcourt, 1949. P. 79.
16. Effentere H. von. Un lawagetas oublie // Atti e memorie del I Congresso internazionale di Micenologia. Roma, 1967. P. 60
17. Egorov A.B. Roman state and law. The royal period and the era of the Republic. St.P., 2006. p.38.
18. Elizarov M.V. The state as an institutional form of organization of social and legal space // Bulletin of Bashkir University. 2009. V. 14. No. 2. P. 617-619.
19. Gumplovich L. The general doctrine about the state. St.P., 1910. P. 221.
20. Gjerstad E. Innerpolitische und militärische Organisation in frühromischen Zeit // Aufstieg und Niedergang der Römischen Welt. Bd. I. Teil 1. Berlin; New York, 1972. S. 143—145.
21. Hegel G.V.F. Philosophy of law. M., 1990. p. 311-312.
22. History of the Ancient World. Early antiquity / Ed. I.M. Diakonov, V.D. Neronova, I.S. Sventsitskaia. M., 1982. p. 18-50.
23. History of state and law of foreign countries. Part I / Ed. O.A. Zhidkov and N.A. Krashennnikova. M., 1998. p. 14-15.
24. History of the Ancient East. The origin of the most ancient class societies and the first centers of the working-class civilization. Part one. Mesopotamia / Ed. I.M. Diakonov. M., 1983. p. 168-170.
25. History of the East. In 6 volumes. V. 2. East in Middle Ages / Ed. L.B. Alaev and K.Z. Ashrafian. M., 2002. p. 339.
26. Idem. A short History of Benin. Ibadan. 1960. P. 4.
27. Idem. La religion des Turc et des Mongols. Paris, 1984. P. 158—161.
28. Kulkov M.O. The mechanism and form of the state: questions of the relationship of concepts // Bulletin of Volgograd State University. Ser. 5. Jurisprudence. 2005. No. 7. p. 124-128.
29. Kant I. To the eternal world. Philosophical project // Kant I. Works. In 8 volumes. M., 1994. V.p. 16.
30. Kradin N.N. Chieftdom: the present state of affairs and problems of study // Early forms of political organization: from originality to statehood / Chief Ed. V.A. Popov. M., 1995. p. 47.
31. Kofanov L.L. The nature of royal power in Rome in VIII - VI centuries BC. // Antiquity and medieval studies. Collection of scientific works. Issue 3 / Chief Ed. V.V. Dementieva. Yaroslavl, 2001. p. 14-24.
32. Kofanov L.L. Lex and ius: the emergence and development of Roman law in the VIII-VI centuries BC. M., 2008. p. 195.

33. Locke J. Two treatises on the reign // Locke J. Works. In 3 volumes. M., 1988. p. 337-338.
34. Lindgren M. The People of Pylos. Uppsala, 1973. P. 151.
35. Lejeune M. Le damos dans la societe mycennienne // Revue des Etudes Greques. 1965, 78. P.4.
36. Lyubashits V.Ia., Mordovtsev A.Iu., Mamychev A.Iu. Theory of state and law. M: RIOR: INFRA-M, 2015
37. Mashkin N.A. Augustus' Principate. Origin and social essence. M.; L., 1949.
38. Marinovich L.P., Koshelenko G.P. Pausanias: Life and Work // Pausanias. Description of Hellas. In 2 volumes. M., 1994. V. I. p. III-VI.
39. Maretina S.A. The community of the mountain peoples of Assam // Community and social organization among the peoples of East and Southeast Asia / Chief Ed. R.F. Its. L., 1967. p. 20- 25.
40. Marx K. The Eighteenth Brumaire of Louis Bonaparte // Marx K. Engels F. Works. V. 8. P.119-217.
41. Maretina S.A. The evolution of the social system among the mountain peoples of Northeast India. M., 1980. p. 174-180.
42. Mommsen T. History of Rome. In 4 volumes. Rostov-on-Don, 1997. V. 3. p. 412-420.
43. Montesquieu Sh.L., On the spirit of laws // Montesquieu Sh.L., Selected Works. M., 1955. p.169.
44. Muller A. History of Islam: From Muslim Persia to the fall of Muslim Spain. M., 2004. p. 706- 710.
45. Nersesiants V.S. Philosophy of law. 2nd ed., revised and extended. M.: Norma, 2006. 835 p.
46. Nemirovskii A.I. Ancient history: Antiquity. 2nd ed., revised and extended. M., 2007. p. 880- 881.
47. N. Machiavelli. Discourses on the first decade of Titus Livius // N. Machiavelli. A sovereign ruler. Discourses on the first decade of Titus Livius. About military art. M., 1997. p. 118-119.
48. Nilsson M. Homer and Mycenae. London, 1933. P. 220
49. O.E. Nepomnin. Transformation of the Chinese state in the first half of the XX century. // The phenomenon of oriental despotism: the structure of governance and power / Ed. O.N. Ivanov. M., 1993. p. 334-361.
50. Paprygin E.S. The rule of law in states with different forms of political and legal regime.
51. Author's abstract, Ph.D. Law. M., 2009.
52. Poliakova G.F. Greek societies of the 2nd millennium BC // Ancient Greece: problems of the development of the policy. V.1: The formation and development of the polis. M.: Nauka, 1983. p. 62-70.
53. Paskov S.S. Japan in the Early Middle Ages, VII-XII centuries. M., 1987.

54. Poliakov A.V. The general theory of law: problems of interpretation in the context of a communicative approach. St.P.: Publishing house of St.-Petersburg State University, 2004. 863 p.
55. Radzig S.I. Cicero and his time // Cicero. 2,000 years since death. M. 1959. p. 9-54.
56. Rousseau. J.J. On the general contract, or the principles of political law // Rousseau J.J. Treatises. M., 1969. p. 138.
57. Romanov V.N. The Ancient Indian ideas of the tsar and the kingdom // VDI. 1978, No. 4.
58. Romanov V.N. Historical development of culture. Problems of typology. M., 1991. p. 92-97.
59. Razuvaev N.V. Elements of the dualism of royal power in Early Rome // History of State and Law. 2011. No. 7. P. 9-14.
60. Roux J.-P. L'origine celeste de la souverainete dans les inscriptions paleolitiques de Mongolie et de Siberie // The Sacral Kingship. Leiden, 1959. P. 237—239.
61. Spiridonov L.I. The general theory of state and law, M., 2001. p. 49.
62. Schutz A. Equality and the meaning structure of the social world. A. Schutz, Selected works: A World Glowing with Meaning. M., 2004. p. 625.
63. Smirnov A.Iu. Napoleon III Empire: from the beginnings to modern Bonapartism. M., 2003.
64. Spinoza B. Political treatise // Spinoza B. Treatises. M., 1998. p. 271-279.
65. Sidahome Y. E. Stories of the Benin Empire. London; Ibadan, 1964. P. 49—50, 64—72, 163.
66. The general theory of state and law. Academic course. In 3 volumes. / Ed. M.N. Marchenko. 3rd ed., revised and extended. V. 1. State. M., 2007.
67. Utchenko S.L. Caesar. Cicero and his time. M., 1998. p. 286.
68. Volkov A.K. The idea of Caesarism and the practice of its implementation in the period of the Second Empire in France // Roman private and public law: centuries-old experience in the development of European law. Proceedings of the IV International Conference on Roman Law, Moscow – Ivanovo (Suzdal), June 25–30, 2006. Ivanovo, 2006. p. 94–97.
69. Valentin Ya. Lyubashits, Nikolay V. Razuvaev, Alexey Yu. Mamychev, Andrey Yu.
70. Mordovtsev, Magomedov R.M. State as Evolving Phenomenon: Key Problems and Approaches
71. //Amazonia Investiga. 2018. Vol. 7. Núm. 15: 32- 41/ Julio-Agosto.
72. Vasiliev L.S. General history. V.1. Ancient East and antiquity. M.: Vysshaya shkola, 2007. 287 p.
73. Polybius. General history. M., 2004. V. I. p. 443.
74. Vasilkov Ia.V. The agricultural myth in the ancient Indian epos (The Legend of Rishyaring) // Literature and culture of ancient and medieval India. M., 1979. P. 112.

75. Weber M. Agrarian history of the Ancient World. M.: KANON-press-C: Kuchkovo pole, 2001. p. 171-202.
76. Wissowa G. Augures // Pauli-Wissowa Realencyclopedia der classischen Altertumswissenschaft. Heft 2. Stuttgart, 1894. S. 2232.