

Book Review

Review

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An Innovative Fundamental Doctrinal Course in Theory of State and Law



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Abstract

Review of the book: Theory of State and Law. V. B. Isakov (ed.) et al. Moscow: Norma, 2020. 1864 p. Vol. 1: Theory of State and Law: Curriculum. 176 p. Vol. 2: Theory of State and Law: Textbook for Schools of Law. 656 p. Vol. 3: Theory of State and Law: Tutorial. 488 p. Vol. 4: Theory of State and Law: Game Tutorial. 544 p.



Keywords

theory of state and law, doctrine, innovative course, practicum, legal categories, legal education

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In the current Russian book market, there is no dearth of editions on theory of state and law, with textbooks and learning materials on the subject occupying long shelves at bookshops. Most of these were written by prominent authors and established research institutions and are re-issued annually. A really innovative publication can seldom be seen on the shelves. For this

reason, among others, the training course in the theory of state and law in four books, developed by the researchers of the Theory and History of Law Chair, of Law Department, the Higher School of Economics (National Research University), will certainly attract the interested reader's attention.

The series of learning aids opens with a curriculum for the course in the theory of state and law, published in a separate volume. Notably, training course curricula have evolved for the worse in the recent years as they turned from a plan, intended simply to guide students through the subject, into a cumbersome and bureaucratic reporting document for various regulatory authorities. The author of the curriculum under review has generally managed to avoid this problem. Its content is free from bureaucratic frills and focuses directly on the tuition process. It includes a thematic plan of the discipline to be taught, discussion class outlines, definitions of the main concepts, reference lists, self-evaluation quizzes; topics for essays, abstracts, term and graduation papers; knowledge and skill evaluation criteria; and examination and credit quiz questions.

However, we should ask whether that technical document really had to be printed as a separate edition for the general reader; but the publication seems quite reasonable. The curriculum represents a 'control hub' for the entire set of learning aids and contains its 'genome'. All the other volumes are co-ordinated in some way or other on the basis of the curriculum. Besides, both students and teachers will probably be pleased to look into the curriculum, published as a handsomely designed book, at a training session or examination.

The second volume in the series is also traditionally named and designed as a Textbook. Amid today's information redundancy, with a wealth of information on any subject available to students in real time, textbooks have largely lost their former significance. From 'kings' of the tuition process they have turned into ordinary 'cans' of information for learners, displaced by such readily available sources as online learning aids, articles in online journals, database analytics, online courses, etc. Yet the textbook is far from becoming useless as a practical tuition tool. It remains in demand as an acknowledged review of the subject for students who read for their examinations and need a systematic account in the optimal volume to be internalised. In this respect, the Textbook under scrutiny meets all reasonable requirements: a volume that students can digest (656 pages), well-structured content, and a clear 'textbook' style.

The general concept behind the Textbook is formulated in one of its first topics: "The authors of this textbook proceed from the fact that law is a multi-faceted social phenomenon showing its various facets in vari-

ous areas of jurisprudence. So its topical chapters such as ‘Rules of Law’, ‘Legal Relations’, and ‘Application and Interpretation’ are mainly based on a normative approach to law. That is the key approach to legal education because the application and interpretation of legal rules have always been the legal practitioner’s main tasks. However, already in the chapter entitled ‘Rule Making, and Norm Creation Process’ we have to accept a broader approach, for a legal rule and especially a normative legal act cannot be developed on the basis of knowledge about law itself: we also need to know the object of legal regulation and the legal relations to be codified. The ‘Human Rights’, ‘Rule of Law’, and ‘Legality, Legal Order, and Discipline’ topics are based on a sociological approach to law that is pivotal to understanding as well as critical evaluation of rules of law. In the topic entitled, ‘Legal Consciousness and Legal Culture’, law is understood as a socio-cultural phenomenon and a manifestation of human consciousness. In short, even after leafing briefly through the textbook one can find that it offers a broad spectrum of approaches to such a complex and multi-faceted phenomenon as law is’ (pp. 51–52). To put it differently, the ‘Textbook’ authors spared both themselves and their students the trouble of pursuing just one of the existing approaches to law in the entire edition, and proceeded pragmatically from a multi-aspect and integrative approach to legal understanding.

We shall avoid the temptation of examining the Textbook’s topical chapters and arguing with the authors on specific issues. Of course, the Textbook cannot encompass the entire spectrum of state and legal theory approaches and views on various issues — or claim to do so. Most importantly, on its pages we found no opinions that could be considered backward, erroneous, inferior, or misleading to students. As for the controversial points that are present, these can be discussed on more detailed examination.

Let us dwell upon some other features that distinguish the Textbook under scrutiny from other similar publications.

Its table of contents already points to an ‘unbalanced’ coverage of state and law issues, with much more space given to law than to state-related issues. One of the authors explained to us that, according to an agreement between the HSE Law Department’s chairs, the matters concerning the state and political system are considered in more detail in the course in constitutional law that runs parallel to the course in the theory of state and law under the general curriculum. However, in the examination cards, state-related issues are present in their entirety, as covered in both courses — those of theory and constitutional law. It is therefore a good idea for teachers to keep this feature in mind as they use this book.

An advantage of the Textbook under review as compared to other publications is that it contains a lot of diagrams on the theory of state and law — about one hundred, i.e. a sizable album of diagrams related to the course is integrated into it. These include more or less successful ones, which also requires a separate review.

The reader will certainly pay attention to the authors' attempt to visualise the 'concept list' related to each topic. Much has been said about the concept lists and their significance for research and educational practice, but, to the best of our knowledge, this is the first attempt to present concept lists in diagram form. Of course, some of the diagrams are not perfect: in our opinion, some concept lists are incomplete or contain alien categories. Yet the approach itself, namely the tentative schematic representation of concept lists, can only be welcomed. A clear understanding of the content of legal categories' concept lists is useful for addressing a multitude of tasks — identifying inter-disciplinary relationships, retrieving information, translating scholar terms correctly into foreign languages, etc.

We should note some other interesting features of this edition. Each topic opens with a 'minor introduction', a literary scene or interesting introductory information of a general social nature. Senior students might find such exemplification redundant, but, given that the theory of state and law is taught in the first year of reaching, it is helpful to first-year students as it graphically relates theory to life and practice and invites a deeper proactive understanding of the theory.

Each topical chapter includes a self-evaluation quiz, and the Textbook itself is supplemented with a list of examination questions. Those follow naturally from the course's curriculum and are also repeated in the Tutorial. However we believe the repetitions to be justified in this case, for Russian universities may not be rich enough to buy all the three inter-related publications, namely the curriculum, textbook and tutorial, for each student. So each book in the series is a complete source in its own right that can be used either as part of the system or individually.

We now open the next volume in the learning aid series, the Tutorial. A university lecturer has probably had an opportunity to see or even develop methodological guides of similar purpose. These are usually smaller learning aids produced reprographically for the students. In this perspective, the inclusion of a tutorial as a separate printed book in this series seems a risky affair. Will such a publication be flexible enough to meet the fast-changing needs of the tuition process? Or will it become outdated even before it reaches the student?

The Tutorial's table of contents shows the volume pursues three goals: firstly, it aims to help the students prepare for discussion sessions; secondly, to assist them in organising their homework; and, thirdly, to give advice and guidance to online learners of the course in the theory of state and law.

The Tutorial starts with a review of university-level learning modalities and methods for organisation and self-organisation in the learning process, which is relevant to first-year students. This is followed by plans of sessions on all the twenty-four topics of the course that include basic terminology, a tentative plan of the seminar, a home task, problems and case studies, topics for essays and reports, etc.

Among the entire traditional set of methodological guidance, only the home task — rigidly defined for each topic — may seem questionable because it is usually a formalised one: to develop a diagram, fill in a table, etc. What can a lecturer do in this situation if s/he wants to be creative and go beyond the tutorial? The answer is contained in the final book, the Game Tutorial, that contains alternative home task options and encourages creative teaching.

In addition to session plans, the Tutorial includes many other useful things for students: topics for term and graduation papers (in both Russian and English), recommendations for writing them, a list of examination and credit quiz questions and recommendations on reading for them, and a list of problems and case studies. As noted above, recommendations on each topic are given to online learners of the theory of state and law.

The tentative outlines of answers to examination cards (pp. 327-486) are probably the most singular part of the tutorial. Though entitled 'Plans of Answers', on close examination these turn out to be synopses — concise answers to the examination questions, rather than outlines. Students will certainly appreciate this approach, for it is actually a ready-to-use product that students should simply memorise and then dilute with some freshet at the exam.

That said, this methodological innovation suggested by the authors raises questions. Firstly, the most inert and spiritless students will never read the textbook itself and confine themselves instead to the tentative plans of answers, for the latter are easier to read and contain the same information in a quarter of the full volume! True, their final mark will be 'C', but that will be quite enough for some. Secondly, the plans of answers developed by professors make perfect raw stuff for cribs approved at the 'top level'. Imagine anybody saying there's something wrong about them! Thirdly, printed

outlines of answers are psychologically perceived as a standard and may lead some students to challenge their examination marks: 'I give the standard answer and you give me a 'C!'" The teaching practice will soon show whether our apprehension is well-founded.

And, finally, the fourth and most innovative part of this series of learning aids is the Game Tutorial intended for lecturers of the theory. For fairness' sake, it is the chair's second attempt to publish a learning aid for teachers rather than students. The first one was a learning aid entitled 'Game Tutorial: Some Experience of Teaching Fundamentals of Law at the Higher School of Economics' and published in 2015. Some ideas and approaches from that tutorial have migrated into its current, far more advanced version. What does this learning aid contain and how can it help lecturers?

The Game Tutorial opens with a detailed review of the forms and methods of teaching the theory of state and law. The ordinary Tutorial contains a similar review as well, but here it is more elaborate and has a different focus. For virtually all the modalities, it shows not only their current status but also their development prospects in the existing conditions.

The Game Tutorial's biggest section contains methodological guidance for each of the twenty-four topics of the course. It describes the purposes of teaching the topic, home task options, problems, case studies, business games, and workshops, and also contains a tentative list of evaluation questions and a recommended reading list for the lecturer. The tasks, problems, case studies, business games and especially the topical issues may be used not only in class but also in extracurricular work with students such as academic competitions and question-and-answer sessions.

The Game Tutorial includes a collection of problems and case studies, also a broader one than that offered to the students in the Tutorial.

Lecturers will certainly pay attention to a collection of games and workshops — active tuition modalities that can be used in the course of the theory of state and law. Comments to these show the practice of using them at the Law Department of the Higher School of Economics.

The Game Tutorial concludes with a section under the title 'Problems, Plans, Prospects' where the authors share their views on ways of overcoming the crisis of traditional learning modalities at higher school. Experimental curricula in the theory of state and law are suggested, with a reduced number of lectures or with all of them replaced with active learning exercises.

According to the introductory article to the whole edition, included in the course's curriculum, the authors' general intention was to write a series of publications catering to all the needs of the tuition process rather than an individual textbook. They have certainly done a lot towards this goal and produced an innovative kit of learning aids comprising four volumes. It contains both controversial aspects points and some undeniable achievements. In the next few years, university practice will show how successful it will be.

A fleet of four volumes is now departing from the bookshop counters, and we shall watch with sympathetic interest how its voyage will develop.

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