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METHODS OF RESEARCH OF HISTORICAL AND LEGAL REALITY: THE PHENOMENON OF UKRAINIAN NATIONAL STATEHOOD AND STATE LEGAL TRADITION

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Methods of research of the phenomenon of the Ukrainian national statehood and state-legal tradition as historical-legal reality are covered.

It is emphasized that the study of this issue should be based on the national-state paradigm, in which the state in general is considered one of the most important means of realizing the sovereignty of the people, and Ukrainian national statehood, in particular, in the context of national traditions of Ukrainian statehood.

The methodology of research of national-state processes is represented as a set of used approaches and interaction of several levels of general methodology (the most fully used methods of comparison, generalization, description), general scientific (dialectical, elementary thought operations, eg, analysis, synthesis, induction, induction, etc.) and specially scientific (axiological, hermeneutics, historical-philosophical and historical-genetic, factorial and semantic analysis, systemic, comparative (historical-legal and comparative-legal), structural-functional, etc.) methods. The application of the chosen methods is substantiated.

Key words: methods of legal science, methods in historical and legal scientific research, Ukrainian national statehood, Ukrainian national state and legal tradition.

Formulation of the problem. The correct choice of methodological tools of scientific research is rightly considered the key to successful implementation of its goals and the implementation of specific scientific tasks.

Researchers warn that when choosing methodological tools, a distinction should be made between method and methodology. If in general the scientific methodology can be classified according to general criteria (for example, for belonging to a specific scientific field) or for special (for a specific study) [1, p. 23], and the methodology of legal science or the system of “cognitive means of scientific study of state and legal phenomena” such that, in particular, includes a number of methodological constructions, such as principles, concepts, approaches, etc. (deserves a separate topic), it does not mean that the latter, for example, can replace research methods. That is why research methods are considered as a central

element of the methodology of any science. Because the method is a way to build and justify the system of scientific knowledge, the way of research and improvement of reality, and methodology, respectively, is a system of rules and techniques of organization and structure of theoretical and applied activities, as well as the doctrine of this system [2, p. 599].

Since the phenomenon mentioned in the title, in our opinion, will always remain relevant in view of, at least, the constant need for historical legitimization of the modern Ukrainian state, the choice of methods as central elements of its research methodology is impossible without building such research on the national-state paradigm. Under this approach, the state in general should be considered as one of the most important means of realizing the sovereignty of the people, and Ukrainian national statehood, in particular, in the context of forming national traditions of Ukrainian statehood with centuries of history. In light of this, it seems relevant and, in general, important definition of such methods as scientific means of knowledge of historical and legal reality.

Analysis of the study of the problem. In general, the question of the methodology of legal science and its methods of scientific knowledge of legal reality is the subject of research by many jurists: Kelman M. S., Kozyubra M. I., Kostytsky M. V., Krestovskaya N. M., Matveeva L. G., Miroshnichenko M. I., Rabinovich P. M., Skakun O. F., Usenko I. B. etc. Indirectly to the problem of scientific methods in the context of the methodology of research of the Ukrainian national statehood addressed, in particular, Gorban V. I. and Kotlyar Yu. V. Instead, we do not know any scientific works that would be directly devoted to the problem of methodology and, in particular, methods of studying the Ukrainian national statehood and state and legal tradition.

The purpose of the article is to identify and substantiate the main scientific methods of knowledge of historical and legal reality in the context of the above issues.

Presenting main material. In the scientific literature on the methodological aspects of cognition, research methods are usually conventionally divided into several groups. At least there are general or philosophical and special-scientific (in our case, special-legal) methods. Sometimes, like N. Krestovska and L. Matveeva, general methods of scientific cognition are allocated to a separate group [3, p. 29–30], which others consider to be among the general scientific (philosophical).

From the field of general scientific methods to master this scientific problem should be most fully used methods of comparison, generalization, description. With the help of comparison in the course of the study it is possible to establish differences and identities between recognizable objects. By generalization, a general concept is defined, which summarizes the main properties of objects of a certain class. And the method of description, which is used to describe a state or legal phenomenon, will be used to develop basic concepts of research. Or the author's view of such fundamental concepts as statehood, and, in fact, the national state and legal tradition and so on.

Among the general scientific (philosophical) methods, the dialectical method of cognition of state and legal phenomena should, of course, become the instrumental basis of scientific research of national-state issues. On the basis of chronological correspondence, it will make it possible to consider the Ukrainian national statehood in the dynamics of its formation and development and in its interconnectedness with other, politically related, processes of society development.

Basic methods of dialectics of elementary mental operations (eg, analysis, synthesis, induction, deduction, analogy, abstraction) are widely used in any study, in particular national-state issues. They are generally interpreted as logical, from the logic of a set of laws and techniques of correct thinking.

However, the goal of studying the phenomenon of Ukrainian national statehood and state-legal tradition should be achieved through the use of a set of special scientific methods –

axiological, legal hermeneutics, historical-philosophical, systemic, comparative (historical-legal and comparative-legal) and others.

Thus, the application of the method of legal hermeneutics (hereinafter italics our – I. T.) in the study of the problem will contribute to a deeper understanding of the source material, analysis and evaluation of monographs and scientific publications, theories and conceptual approaches contained in them. Among the latter, we believe that the main place should be given to the theory of legal tradition formed on the basis of a civilizational approach.

Collectively, hermeneutic, as well as used *socio-anthropological* (focused on the study of the structure of social relations of traditions, legislation, customary law, etc. people within social groups) methods will allow a deeper understanding and more generalized political and legal phenomena and properties, which are the subject of research of the scientific problem mentioned in the title.

The use of another similar (in content) method of *discourse analysis of texts*, based on the theory of discourse M. Foucault, in our opinion, will reveal the expression of certain discourses, the so-called. *fields of play of speech events* that form the idea of the era. This method, in particular, was effectively used by M. Gaukhman in characterizing the Ukrainian image of interethnic relations in the Right Bank of Ukraine in the second half of the nineteenth and early twentieth centuries. [*Doc. see*: 4, p. 49–90].

The main task in discourse analysis is to identify the basic meaning of the so-called speech. *guiding statement*, the appearance of which starts the process of circulation of other statements of a certain discourse [5, p. 138, 231]. Polish Ukrainian O. Hnatyuk explained the essence of this method on the example of “discourse of the nation”. According to her, if the guiding expression of the nation's discourse is the phrase “humanity divided into nations”, it generates other discourse statements, such as: “every nation has its own history”, “every nation has its own interests”, “every nation has the right to political independence”. That is, according to the researcher, the strategy of the nation's discourse is the opposition of “their” nation to “foreign” communities [6, p. 63–64].

To characterize the achievements of domestic political and legal thought, determine the quality of works, their compliance with the constants of Ukrainian national genesis and the formation of national state and legal tradition, should use the possibilities of the *axiological method*. Instead, use the *historical* (or *specifically-historical*) method to assess the historical heritage of the Ukrainian nation and state through the prism of a particular historical period, the social environment during which and in which these processes took place.

The historical and philosophical method will be used mainly to analyze the intellectual heritage of domestic thinkers of ideas on the need to preserve national identity, the implementation of national-territorial sovereignty and more. And in order to clarify the origins and origins of certain conceptual positions in Ukrainian socio-political and legal thought, one should resort to the use of *the historical-genetic method*.

The system method will be used, in particular, to study socio-political and political-legal phenomena in their development and dynamics. Thus, with its help it would be possible to study the nature of the national state and legal tradition in connection with the peculiarities of the Ukrainian nation-genesis and the socio-political situation in the ethnic Ukrainian lands.

The structural-functional method seems indispensable for determining the role of institutional components, such as parliamentary and around parliamentary institutions, scientific societies, universities, etc., in developing concepts of preserving Ukrainian national identity (broader than national genesis), political self-sufficiency (broader statehood) in Ukrainian socio-political and legal thought.

To determine the impact on the political process of a set of factors of socio-cultural, intellectual, ideological, cultural and others, circumstances and preconditions for their emergence, one should resort to the possibilities of *the method of factor analysis*. And use *the method of semantic analysis* to define, interpret and present terminological structures, in particular for the representation and interpretation of the

conceptual apparatus of domestic thinkers of the XVI–XVIII centuries, public and cultural figures and scholars of the XIX – early XX century.

Through comparative methods *comparative-historical*, which makes it possible to identify common and distinctive features and patterns of development of state and legal phenomena and processes, and *comparative law*, which involves a deeper study of legal phenomena, institutions and processes through their comparison, should be studied national state and legal ideas, specific institutions of state and law, regulations, etc. Ukrainian and similar neighboring nations (in the synchronous dimension) or in different historical periods of Ukrainian statehood (diachronic method).

Using the *method of state and legal modeling* will allow to study the phenomenon of Ukrainian national statehood from the standpoint of ethnic and political model of the Ukrainian nation.

Of course, *specific research* (optimal use of new sources, monographs, periodicals, etc.) and *constructivist methods* (according to which the “nation” is perceived as an “imaginary” community) of scientific knowledge should also be widely used.

Finally, it should be noted that the application of a set of the above scientific methods in the study should be based on general scientific principles: systematic, historicism and objectivity, complexity, comprehensive research and modeling.

Conclusions to the above material, in our opinion, can be reduced to several points.

First, the study on the phenomenon of Ukrainian national statehood and state-legal tradition should be based on the national-state paradigm, in which the state in general will be considered as one of the most important means of realizing the sovereignty of the people, and Ukrainian national statehood, in particular national traditions of Ukrainian statehood, which have a long history.

Second, the research should be performed on the principles of general science: systematic, historicism and objectivity, comprehensiveness, comprehensive research of the problem and modeling. All these principles should be implemented through the application in the study of a set of scientific methods of general, general or philosophical and special-scientific (in our case, special-legal). In our opinion, their use in the aggregate should ensure the validity and reliability of the results of the studied problem.

The third, interdisciplinary approach, which should be based on the study of the phenomenon of Ukrainian national statehood and state-legal tradition, will allow a comprehensive analysis of the subject and use the achievements of a number of related to the theory and history of state and law and political and legal doctrines. categorical apparatus of philosophy of law, constitutional law, theoretical sociology and political science. This means the use of the principle of polymethodology in research work.

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МЕТОДИ ДОСЛІДЖЕННЯ ІСТОРИКО-ПРАВОВОЇ РЕАЛЬНОСТІ: ФЕНОМЕН УКРАЇНСЬКОЇ НАЦІОНАЛЬНОЇ ДЕРЖАВНОСТІ Й ДЕРЖАВНО-ПРАВОВОЇ ТРАДИЦІЇ

Висвітлюються методи дослідження феномену української національної державності та державно-правової традиції як історико-правової реальності.

Наголошено, що дослідження вказаної проблематики має бути побудоване на національно-державницькій парадигмі, за якої держава загалом розглядається як один із найважливіших засобів реалізації суверенітету народу, а українська національна державність, зокрема, – в контексті формування національних традицій українського державотворення, що мають багатовікову історію.

Методологія дослідження національно-державних процесів репрезентовано як комплекс використовуваних підходів та взаємодію декількох рівнів методологіювання – *загальних* (найповніше використовувалися методи порівняння, узагальнення, дескрипції), *загальнонаукових* (діалектичний, елементарні мисленнєві операції, напр., аналіз, синтез, індукція, дедукція, аналогія, абстрагування та ін.) і *спеціальнонаукових* (аксіологічного, герменевтики, історично-філософського й історично-генетичного, факторного й семантичного аналізу, системного, компаративного (історично-правовий та порівняльно-правовий), структурно-функціонального та ін.) методів. Обґрунтовано застосування обраних методів.

Ключові слова: методи юридичної науки, методи в історико-правовому науковому дослідженні, українська національна державність, українська національна державно-правова традиція.