

Part II

Perspectives on the Development of Historiography and Contemporary Public Law

UDC 34

Sergey V. Kodan

Institute of State and Law,
the Russian Academy of Sciences,
Moscow, Russia

E-mail: svk2005@yandex.ru

ORCID: 0000-0002-4041-625X

SPIN-code: 8725-9656

Historiography in Jurisprudence: Interactive Interdisciplinary Spaces

Abstract. The article examines the interdisciplinary origins of historiography as a relatively new direction in terms of its positioning in the sectoral and disciplinary structure of legal science. Particular attention is focused on the interdisciplinary foundations and directions of historiographic research in socio-humanitarian studies as projected onto the sphere of research of a state-legal nature in jurisprudence. At the same time, areas of communicative interactions between historiography in jurisprudence and other social and humanitarian sciences can be identified in the context of their significance and influence on the spectrum of historiographic research in the juridical sciences.

Keywords: social and humanitarian sciences; historiography in social and humanitarian studies; historiography in scientific and cognitive activity; historiography in the structure of jurisprudence; legal historiography; interdisciplinarity of legal historiography

The development of modern jurisprudence is characterised by the emergence of new research directions that arise at its intersections with other scientific disciplines and areas of knowledge. One of these directions in modern legal sciences, whose main research contours have been delineated in recent years, is historiography (Kodan 2020). At the same time, we note that contemporary approaches to historiographic research in jurisprudence have already been quite clearly articulated (Gorban 2024). However, such attention to the emerging historiographic direction in modern Russian jurisprudence poses a number of problems requiring a special focus on issues directly related to this problematic. In what follows, we will focus on only one of these aspects: the interdisciplinary nature of legal historiography.

1. The interdisciplinary origins of the historiographic direction in socio-humanitarian studies and jurisprudence are closely interconnected. The main progenitor of historiography, within whose framework the present understanding of this phenomenon was formed, was historical science. This can be considered in a broad sense, i.e., as the evolution of historical science as a whole and of the individual scientific disciplines that comprise it, as well as in a narrow sense, i.e., as a set of historical studies on a specific era, topic, problem, or related to national historical science in a particular country. Thus, in developing and evolving from its origins in Classical thought, historiography not only determines the theoretical and methodological foundations for studying processes in historical science, but also influences the study of the history of the development of other sciences. In the European and then Russian science of the 19th and 20th centuries, a tradition of working with historiographic sources emerged and then stabilised: while explicitly relying on the works of their predecessors, scientists presented critical analysis informed by their own particular fields of knowledge.

In the 20th century, historiography transcended the boundaries of historical science to become a driving force for research in existing and newly emerging branches of scientific knowledge. The historiographic direction was positioned in the philosophy of science and science studies, as well as in works on the history of individual branches of scientific knowledge and scientific disciplines. Numerous methodological turns in the second half of the 20th cen-

tury in the social and humanitarian sciences led to the definition of new problem fields and interdisciplinary approaches, resulting in the formation of new research directions – the historiography of intellectual history, biographical historiography, source studies of historiography, etc. By the beginning of the 21st century, the understanding that historiography reflects the development of science as a whole, as well as its individual branches and scientific disciplines, research areas, themes and problems, had already become axiomatic.

In modern socio-humanitarian studies, historiography acts as a type of synthetic knowledge to define general and relatively universal theoretical and methodological foundations for working in the historiographic spaces of science, representing individual branches of knowledge and scientific disciplines in various research areas and projections of specific studies both in the disciplinary environments themselves and in interdisciplinary interactions between special sciences.

Although already taking form during the 19th and 20th centuries, ***historiography*** is currently in the process of assuming its proper place, role, tasks and functions, as well as its positioning in the structure of Russian jurisprudence. By absorbing and adapting historiographic developments from various social and humanitarian sciences, contemporary legal science forms its own understanding of the role and significance of the development of historiography within the framework of its object of knowledge. The terminological designation of this direction as *legal historiography* (Kozhevina 2023) has entered scientific circulation. And although such a designation of historiography in jurisprudence has a certain degree of conventionality, the more concrete positioning of this direction and scientific discipline in jurisprudence is associated with the state-legal sphere of social life and the study of legal science. And, while historiographic research in modern jurisprudence in the generally understood sense is primarily characteristic of historical and legal sciences, it is also beginning to appear in industry-specific areas of scientific understanding.

As a result, it can be stated that, for jurisprudence, the historiographical direction of research is essentially interdisciplinary in nature; moreover, historiography is present in one way or another in all branches and disciplines of legal sciences. In this

regard, we emphasise that the general and basic theoretical and methodological parameters, models and structures for studying the historiographic space for legal science are established by socio-humanitarian studies. Accordingly, historiography in jurisprudence – as in other socio-humanitarian sciences – consists in a system of interrelations with historiographic knowledge in socio-humanitarian studies, which sets the basic theoretical and methodological parameters, models and structures for studying the historiographic space.

2. The interdisciplinarity of the subject of historiography in modern socio-humanitarian studies and jurisprudence is connected with its general direction being identical to theirs – it refers to the history of individual branches of science and scientific disciplines to cover, as L.A. Markova emphasises, “various forms of historical and scientific reconstructions that depict the real historical process of development of science on the basis of research methods, methods of selection, description and interpretation of scientific texts, discoveries, and scientific theories that correspond to the place and time” (Markova 2009: 333-334).

The *objectives of historiography*, which are generally determined by its subject focus, are associated with the selection, analysis and provision of information on the existing array of scientific research as a reflection of the historical development of a separate area of knowledge involving the activity of scientists, along with their theoretical approaches, methodology, methods and technologies for studying historiographic information carriers, in order to ensure educational, research and law enforcement practices.

The *subject focus of legal historiography*, which consists in the specified projections, is oriented towards studying cognitive processes of state and legal phenomena and institutions through the works of legal scholars, involving the study of their scientific biographies and creative process, including mechanisms for accumulating, preserving and transmitting historiographic information, as well as other issues of a historiographic nature in jurisprudence according to various research areas and projections.

The *objectives of legal historiography* are related to the selection, analysis and provision of information on the existing array of scientific research as a reflection of the history of the development of a separate field of knowledge, including scientific activities,

theoretical approaches, methodology, methods and technologies for studying historiographic information carriers to support research and educational practices. The *tasks and functions of historiography in jurisprudence* are structured accordingly.

The ***positioning of historiography in the system of legal sciences*** appears to be one of the important problems of understanding its place in the space of the latter. Here a problem arises in terms of the poorly defined status of historiography in the structure of jurisprudence and clear need to identify a special group of sciences within it, e.g., ancillary sciences by analogy with auxiliary/special disciplines in historical science, literary criticism, etc. By their very name and content focus, ancillary legal sciences are of an auxiliary or subsidiary nature, the object of whose study consists in a set of problems related to jurisprudence, science studies, methodology, historiography and source studies in legal science. Ancillary legal sciences thereby discuss the development of legal science as a whole and its individual disciplines, which represent for them “knowledge about knowledge”, by means of which “the system of coding, reproduction and transmission of certain skills, experience, and knowledge” functions, in whom “the ability of a person to possess the knowledge of the universe and the sources of this knowledge that he has achieved and to reproduce them in time and space is expressed and reproduced” (Mamardashvili 1982: 42).

The grounds for the disciplinary demarcation of ancillary legal sciences, which are determined by their specific features – subject focus, place in research and educational programs, significance for the formation and development of a scientist as the subject of scientific activity, correspond to the criteria for “isolating a body of knowledge into a separate independent branch” of legal knowledge (Syrkh 2012: 108-111). As it develops, legal historiography has the capability to “grow” to the status of an independent legal scientific and educational discipline along with others – legal science studies, history of jurisprudence, legal methodology, and studies of legal sources (Kodan 2020).

In conclusion, we may note that legal historiography as a new research direction and future scientific discipline is beginning to develop its own cognitive space. For this purpose, theoretical and methodological historiographic knowledge accumulated during the development of social and humanitarian sciences should be

thoroughly elaborated and adapted to the specifics of legal science at the industry-specific and other disciplinary levels to create basic theoretical and methodological grounds for the allocation of legal historiography in the structure of legal science.

3. Interdisciplinary interactions of socio-humanitarianism and jurisprudence in historiographic research are manifested according to two main projections: the *foundations of knowledge in the field of historiography* and the *directions of historiographic research*, which have already been sufficiently well reflected in a number of scientific fields. Thus, in terms of jurisprudence, the development of such interdisciplinary interactions becomes necessary for the development of legal historiography.

The *foundations of historiographic knowledge* are based on a spectrum of knowledge that displays the multidimensionality of the historiographic space to provide a necessary and sufficient basis for the research practices of the legal historiographer. These can be designated as follows.

The *cultural and cognitive foundations of legal historiography* act as initial scientific and ideological guidelines for conducting historiographic research. Here it will be necessary to consider the interaction of historiography with such sociocultural phenomena as scientific memory, scientific heritage, intellectual reception, scientific traditions, and continuity in science. These phenomena mediate the influence of the specified socio-cultural factors on scientific knowledge by including their own ideological attitudes and research practices.

While built on relevant developments in socio-humanitarian studies as a whole, the *theoretical foundations of legal historiography* are adapted to the specifics of historiography in jurisprudence and transferred to the level of individual groups and legal-scientific disciplines to create a basis for historiographic research that considers their subject specifics. Here it will be important for the legal historian to turn to knowledge regarding the subject area, tasks, functions, research models and structures for studying historiography and other general issues that permit their application to the study of historiographic processes in jurisprudence.

The *methodological foundations of legal historiography* are formed in the context of general knowledge having a methodological nature in the historiography of socio-humanitarian studies in

relation to the tools for conducting historiographic research in jurisprudence. Here the researcher must rely on principles, methods, approaches, techniques and technologies capable of producing accurate, reliable and verifiable results of the study of historiographic phenomena, processes, arrays of scientific literature and sources, as well as conducting their qualitative analysis, etc. Considering historiographic experience in the social and humanitarian sciences, such resources can be used construct and develop a methodological toolkit for legal historiography.

The ***directions of historiographic research*** reveal the contours along which historiographic material is studied to create scientific works in this area. Each of these can be used, whether individually or in their various combinations, to define research strategies for historiographic studies. Based on literature analysis and the study of research practices in various branches of the social and humanitarian sciences, the following areas of historiographic research can be identified.

The *historiographic and scientific studies* research direction involves the study of the history of the development of knowledge in legal science as a whole, as well as in its individual branches and scientific disciplines, within the study of their genesis, development trends and structuring, including the mechanisms of interpersonal and collective transfer of knowledge, the experience of scientific activity and the functioning of scientific schools, along with their foundations and systems of scientometric indicators, etc. This line of research finds expression in the form of various thematic studies at the “junction” of historiography and the corresponding social, humanitarian and legal sciences. For jurisprudence, research in this area can contribute to identifying and developing the new scientific discipline of legal science.

Thus, the *historiographical-intellectual direction* refers to the study of various types of creative human activity in jurisprudence, their genesis and development, intellectual creativity in various scientific fields, the experience of assimilation and transformation of their ideas in society according to retrospective projections, as well as to modernity in actual cultural and social contexts. Historiographic research in this area can be related to various aspects of intellectual history, including the history of ideas, the history of social, political, philosophical, historical, state and legal thought,

the history of elites, etc. Of particular importance for jurisprudence here are works on the historiography of the philosophy of law, the history of teachings on the state and law, theories of the state and law, as well as historiographic aspects of branch sciences.

The *historiographic problematic* is traditionally aimed at studying individual directions, themes and problems in legal science at the sectoral, disciplinary and specific research levels. It can be implemented through analysing the development of the subject and problematic in the scientific literature for the preparation of monographs, dissertations, scientific projects, conducting literature reviews on individual topics and problems within the framework of various sciences, including jurisprudence. Accordingly, work in this direction not only examines the degree of elaboration of individual issues in legal literature, but also reveals the contours of new, unexplored areas of jurisprudence to assess their theoretical relevance and practical significance for the development of jurisprudence.

The *historiographic and biographical direction* refers to the study of the specific contribution made by individual thinkers to legal science. Their contributions to scientific knowledge and heritage can be studied through the prism and against the background of their life paths in the context of factors, actors and situations that arose to influence their scientific activity. This direction finds expression in various forms of research – biographical reports, analytical works of biographical problems, intellectual biographies, etc. As well as personalising jurisprudence, the indicated direction in jurisprudence demonstrates the preservation of longstanding scientific traditions on the basis of specific examples, preserving research continuity and revealing the formation and development of scientific schools, the place and role of leading scientists in them, etc.

The *historiographic and source studies* direction is aimed at studying the carriers of historiographic information in jurisprudence – complexes of documents and materials, including various published and archival documents, sources of personal origin, periodicals and journals related to the history of the development of individual branches of legal-scientific knowledge and disciplines, along with the individual and collective activity of scientists, its conditions, creative processes and searches, results obtained, and other aspects of the development of the science. This direction is

presented in the form of reviews, descriptions of individual sources and their types or complexes, and other information carriers of a legal and historiographic nature. In jurisprudence, these issues can also be worked out within the framework of legal source studies.

In conclusion, we emphasise that legal historiography as a research space requires from the historiographic researcher a fairly wide range of knowledge, which forms the necessary basis for conducting high-quality research in this area. Reliance on historiographical theoretical and methodological developments and research directions that have developed in various humanities create the opportunity for their use when working with historiographical material in jurisprudence to obtain new results that significantly expand the understanding of state and legal phenomena in terms of their institutions according to a variety of projections. Accordingly, legal biography can assert itself as an independent scientific and educational discipline to take its appropriate place in jurisprudence.

References

Gorban V.S. 2024. Formation of a Modern Historiographical Model of Political and Legal Knowledge, *State and Law*, no. 7, pp. 64–78, doi 10.31857/S1026945224070055 (in Russ.).

Kodan S. V. 2020. Historiography of Legal Science in Modern Educational and Research Practices, *Legal Science and Practice: Journal of the Nizhny Novgorod Academy of the Ministry of Internal Affairs of Russia*, no. 3, pp. 12–18, doi 10.36511/2078-5356-2020-3-12-18 (in Russ.).

Kozhevina M.A. 2023. Legal Historiography in the System of Cognitive Tools of Russian Legal Science, *T.F. Yaschuk (resp. ed.), Law Enforcement in Public and Private Law: Proceedings of the International Scientific Conference*, Omsk, March 24, 2023, Omsk, Omsk State Univ. named after F.M. Dostoevsky, pp. 32–36. (in Russ.).

Mamardashvili M.K. 1982 Science and Culture, *I.S. Timofeev (resp. ed.), Methodological Problems of Historical and Scientific Research*, Moscow, Nauka, pp. 38–58. (in Russ.).

Markova L.A. 2009. Historiography of Science, *I.T. Kasavin (ed.), Encyclopedia of Epistemology and Philosophy of Science*, Moscow, Kanon+, ROOI “Reabilitatsiya”, pp. 333–334. (in Russ.).

Syrykh V.M. 2012. *History and Methodology of Legal Science*, Moscow, Norma, Infra-M, 464 p. (in Russ.).