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The state in the thought of Robert von Mohl

Abstract

The main objective of this dissertation is to provide a comprehensive synthesis and discussion of Robert von Mohl's views on the state. The author primarily demonstrates, that this scholar's understanding of the state was rational and comprehensive. Moreover, based on an analysis of historical events, the author demonstrates, that with regard to the understanding of the significance and the role of the state, von Mohl was drawing on the achievements of two eras. On the one hand, he was inspired by the times of absolutism and the *Polizeistaat*, while on the other hand, he was partial to the liberal reflection encapsulated in the idea of the *Rechtsstaat*. The temporal scope of the dissertation was delineated by the duration of the scholar's life and creative work. It is therefore primarily focused on the period from the beginning of the 19th century until the creation and the first years of functioning of the German Empire. Because von Mohl was also drawing on the achievements of the times of enlightened absolutism, the work also includes references to the second half of the 18th century.

The dissertation consists of a list of abbreviations, an introduction, five chapters, and a conclusion. Each of the chapters has been assigned a specific role and a research task.

The first chapter is primarily meant as an introduction to the main themes of the dissertation. It serves to outline the general political and social situation of the German states in the 19th century. This objective is achieved through a brief overview of the most important events and ideological trends taking place in 19th-century Germany. This primarily involves identifying and highlighting the social and political unrest affecting the German territories almost throughout the entire 19th century (until the unification under the aegis of Prussia). The first chapter also presents the views of five thinkers whose understanding of the state could be considered emblematic for the ideological portrait of Germany at that time. The author therefore discusses the conservative thinkers Karl Ludwig von Haller and Friedrich Julius Stahl. This is followed by a reference to the understanding of the state exhibited by Adam Müller, a representative of the so-called "Romantic vision of the state". The objective of outlining the ideological image of 19th-century Germany is concluded with a presentation of the ways in which the state was perceived by prominent liberal thinkers of that epoch: Karl

von Rotteck and Karl Theodor Welcker. The first chapter of the dissertation ends with a discussion of the most important elements of Robert von Mohl's biography.

The second chapter is also meant to provide background for von Mohl's theory of the state. Here the author demonstrates, that Robert von Mohl saw the state as one of many so-called "spheres of life", in which people function in the course of their existence. Based on the analysis of the idea of "spheres of life" it is also indicated, that in von Mohl's thinking the state was not an all-encompassing phenomenon covering the entirety of human existence. Therefore, the author provides a brief summary of the other "spheres of life" and of their relationship with the state. Additionally, the author addresses the concept of objectives that – according to von Mohl – people set for themselves during their earthly existence. The latter was also one of the scholar's main assumptions, in relation to which he developed his concept of the state and the justification of its existence. One of the "spheres of life" distinguished by von Mohl was the society. The analysis of the concept of society presented in von Mohl's work is very extensive and also provides a background for the study of the state. In the first place, the author shows the German scholar's assessment of the prior scientific achievements concerning the issue of society. This assessment proves, that von Mohl had an extensive knowledge of the literature of the subject, and also serves as an introduction to the subsequent discussion of his original concepts. The author also presents the scholar's understanding of the relationship between the state and the society. An analysis of the system of social sciences in the thought of von Mohl serves as a segue to the themes of the "sciences of the state". The objective of this research task was to show, that in addition to the state, von Mohl also attributed great significance to the society and to the individual (he created a separate scientific scheme for all of the listed phenomena).

One confirmation of von Mohl's comprehensive understanding of the state is the entire scope of knowledge relating to the "sciences of the state". Any discussion of von Mohl's understanding of the state would be incomplete without a discussion of the classification of the scope of sciences relating to the state, which was introduced by the scholar. The author analyzes the concept of *Staatswissenschaften* ("sciences of the state"), and their role and popularity in the German science of the time. It is demonstrated, that von Mohl's ambition was to create a system of science allowing for the analysis of the state from all the possible points of view. Therefore, in addition to the law, he also saw the state through the prism of politics and ethics. He was also aware of the role of history and statistics in the state. This confirms, that the state was at the center of von Mohl's scientific reflection.

The third chapter begins the exploration of themes that are of key importance from the point of view of the objectives of this dissertation. It focuses on an analysis of the origins and the concept of the state, as well as its evolution, throughout Robert von Mohl's work. It corresponds with the "spheres of life" listed in the second chapter through an indication of the differences between them and the state. Here the author discusses the paths to the formation of the state – as distinguished by the scholar – as well as the objectives that should be guiding its functioning. The research task undertaken in the third chapter also involves the analysis of the state's component parts that von Mohl distinguished in his definition. The author therefore discusses the scholar's ideas in relation to the concepts of the nation, "collective force", "collective will" and territory.

Von Mohl stated, that the state is a creation functioning for the people. Because of that, the importance of the population for the state – which was thoroughly analyzed by the scholar – has been extracted to a separate editorial unit. In this aspect, inter alia, due to the ethnic tensions occurring at that time, it seems important to present the scholar's views on the issue of national affiliation in the state. The author therefore discusses the concept of the individual's rights in relation to the state, arising out of national affiliation, and the impact that this fact has on the state. An analysis of von Mohl's concept of the "kinds and types of states" serves as an introduction and a substantive link with the fourth chapter. Based on the juxtaposition of opposites, this analysis enables the author to highlight the characteristics of one of the main axes of the scholar's considerations, namely the idea of the *Rechtsstaat*.

As previously noted, the idea of the legal state was one of von Mohl's most extensive research areas. In order to realize the objective of analyzing the concept of *Rechtsstaat*, the author first presents von Mohl's understanding of the origins of the legal state and his assessment of the views of other scholars in this respect. This is followed by an examination of von Mohl's understanding of the legal state and his attempt to define it. The author highlights the fact, that von Mohl linked the ideas of the *Rechtsstaat* to the level of a given nation's civilizational development.

One of the aspects of von Mohl's idea of the *Rechtsstaat* with a material dimension were the relations between the individual (the citizen) and the legal state. For the purpose of discussing these relations, the author first presents von Mohl's understanding of the concept of the citizen. Secondly, both the rights and the obligations of citizens in a legal state are analyzed. The author analyzes the formal aspect of the legal state and examines the sources of law in von Mohl's thought, as well as their mutual relationships. Despite their universal nature, they also correspond to the concept of the *Rechtsstaat* as von Mohl based his thinking

a three-tiered division of the sources of written law. The author also refers to the principles of the legislative process expressed by the scholar.

The fourth chapter provides an analysis of the relationships between the absolutist police state, and the legal state in the thought of Robert von Mohl. To this end, the author discusses the concept of the state acting through its administration. The author presents the principles of functioning of state administration and the “police” (*Polizei*), as well as their compliance with the principles behind the concept of the legal state. Von Mohl's analysis of the issue of bureaucracy and functioning of public officials in the state was also discussed. A whole separate issue is the acceptability of the state's use of coercion, which is presented on the basis of the functioning of state administration.

The considerations undertaken as part of this doctoral dissertation are concluded with a chapter referring to the broadly defined issues of power in the state and the entities that exercise it. This research task begins with an analysis of the concept of power in the thought of Robert von Mohl, and an attempt to determine the meaning of the scholar's claim, that this power should be indivisible and unaccountable. The author then discusses the scholar's evolving views on the issue of parliamentary representation. This was yet another subject of lively debates in the restless 19th-century Germany. In order to deepen the discourse on this issue, the author provides a description of the internal situation at the time in relation to the development of the idea of parliamentarism. An attempt was also made to determine, what parliamentary system arrangement was considered by the German scholar to be the most beneficial. Moreover, the author analyzes the issue of the party system as well as the relationship between the understanding and the role of society and the parliamentary system. Meanwhile, the analysis of von Mohl's understanding of democracy and his opposition to universal suffrage provides evidence of the moderate nature of his liberal leanings.

In the conclusion, apart from a summary of the work and an assessment of the theses contained in the dissertation, the author also refers to the links between von Mohl's ideas and modern times. For this purpose, the scholar's ideas are compared with the principle of the legal state and the principle of the social state, which are present in the current German constitution.