

EDUCATION AS A PHILOSOPHICAL AND LEGAL CATEGORY

EDUCAÇÃO COMO CATEGORIA FILOSÓFICA E JURÍDICA

LA EDUCACIÓN COMO CATEGORÍA FILOSÓFICA Y JURÍDICA

Elena V. BESTAEVA¹
Elena Y. GRISHNOVA²
Ludmila Yu. GRUDTSINA³
Oksana R. DOGUZOVA⁴
Natalia A. SELEZNEVA⁵

ABSTRACT: The purpose of the article is to study the essence and content of the "education" concept as a philosophical category in the historical aspect, as well as from a legal point of view. The leading method of studying the problem was the deductive method, which allowed studying the category of education as a historical and philosophical-legal one in the socio-cultural system, with the disclosure of the problem of the autonomy of education in the aspect of politics and economics. The article proves that a comprehensive, generalized analysis of the Russian pedagogical thought of the 19th century, its composition, structure, specifics, its main ideas and problems, its place in the general development of Russian pedagogy is the most important task of future historical and pedagogical research. To facilitate the implementation of this task as much as possible, we will draw attention to several unresolved problems that are not explained in historiography and what prevents their solution.

KEYWORDS: Education. Philosophy. Socio-cultural system. Methodology.

RESUMO: O objetivo do artigo é estudar a essência e o conteúdo do conceito de "educação" como categoria filosófica tanto do ponto de vista histórico quanto jurídico. O principal método de estudo do problema foi o dedutivo, que permitiu estudar a educação como característica histórica e filosófica-legal no sistema sociocultural, revelando o problema da autonomia da educação no aspecto político e econômico. O artigo prova que uma análise abrangente e generalizada do pensamento pedagógico russo do século 19, sua composição, estrutura, especificidades, suas principais ideias e problemas, seu lugar no desenvolvimento geral da pedagogia russa é a tarefa mais importante de futuras pesquisas históricas e pedagógicas. Para facilitar ao máximo a execução dessa tarefa, chamaremos a atenção para diversos problemas não resolvidos que não são explicados na historiografia e que impedem sua solução.

PALAVRAS-CHAVE: Educação. Filosofia. Sistema sociocultural. Metodologia.

¹ Financial University under the Government of the Russian Federation, Moscow – Russia. ORCID: <https://orcid.org/0000-0002-2875-2947>. E-mail: elvbstaeva@fa.ru

² N.E. Bauman Moscow State Technical University (National Research University), Moscow – Russia. ORCID: <https://orcid.org/0000-0003-2080-3284>. E-mail: grishnovaiip@yandex.ru

³ North-West Institute (branch) of the University named after O.E. Kutafin (Moscow State University), Vologda – Russia. ORCID: <https://orcid.org/0000-0001-7731-724X>. E-mail: ludmilagr@mail.ru

⁴ Gorsky State Agrarian University, Vladikavkaz – Russia. ORCID: <https://orcid.org/0000-0002-1078-1790>. E-mail: doguzova85@inbox.ru

⁵ Peoples' Friendship University of Russia (RUDN University), Moscow – Russia. ORCID: <https://orcid.org/0000-0002-6239-8291>. E-mail: selez.nataly@gmail.com

RESUMEN: *El objetivo del artículo es estudiar la esencia y el contenido del concepto de "educación" como categoría filosófica tanto desde el punto de vista histórico como jurídico. El principal método de estudio del problema fue el deductivo, que permitió el estudio de la educación como característica histórica y filosófico-jurídica en el sistema sociocultural, develando el problema de la autonomía de la educación en los aspectos político y económico. El artículo demuestra que un análisis completo y generalizado del pensamiento pedagógico ruso del siglo XIX, su composición, estructura, detalles, sus ideas y problemas principales, su lugar en el desarrollo general de la pedagogía rusa es la tarea más importante de la futura investigación histórica y pedagógica. Para facilitar al máximo la ejecución de esta tarea, llamaremos la atención sobre varios problemas no resueltos que no se explican en la historiografía y que impiden su solución.*

PALABRAS CLAVE: *Educación. Filosofía. Sistema sociocultural. Metodología.*

Introduction

In any science, there are problems that philosophy considers the subject of its attention. Private science tries to solve them by its methods, but therewith it reaches the level of philosophical generalization. In this case, there is no sharp boundary between science and philosophy. How does philosophy solve the problems that arise in this case? If scientific methods do not work, philosophy offers a logical system in which all existing facts are explained. Therefore, the main characteristics of philosophy are consistency, rationality, evidence-based approach. To fulfill such a task, philosophy uses extremely abstract concepts, so its provisions become universal and can be applied in all areas and types of human activity. Currently, there is training in the methods of formalization of the creative process itself, for example, in such a science as heuristics. However, it, like any science, strives to become the only one, that is, it does not allow violating its postulates.

At the threshold of the new millennium, the need to look with special attention and interest at the path traveled, to determine the location of a person in the complex and changeable coordinate system of the development of modern science and education is becoming more and more manifested. Therefore, it is not surprising that one of the defining trends in the development of university education is an increase in interest in the theoretical and methodological problems of science. Courses of a scientific and methodological nature are being actively introduced into the educational process, the importance of research activities at various levels is noticeably increasing from student scientific research to fundamental scientific projects and programs (BUZAROV; KUDAEV, 2002). The word does not just copy the a priori existing reality, the surrounding world. It, in turn, changes, transforms this world. It is believed that the word has magical creative power. A person's self-expression is also connected with

language. A person forms himself/herself in language and is perceived by others through language. Along with the recognition of intuitive and meditative forms of cognition, many Western researchers recognize and reveal the process of rational cognition, which includes the entire complex of a person's spiritual life, all his/her sensory-practical activities, and pre-rational forms of cognition as immanently inherent in a person before the beginning of any perception of the world.

Humanity has faced many contradictions that have led to serious crisis phenomena in many areas of human life in the last decades of the 20th century. In this regard, Western scholars, concerned about the ecological state of the planet and the health of people, have sharply criticized the existing way of life in most countries of the world, which has led to the accumulation of the huge number of weapons that threaten to blow up the world and the creative cooperation of peoples, threatening with cosmic catastrophes. The critical program was accompanied by constructive demands for a "turning point" concerning the world and man, the rejection of mechanistic thinking, in which there is no holistic perception of the world and the person in it. The new paradigm, according to the American scholar G. Bateson, is the worldview of holism (integrity). According to Bateson, the new paradigm is synonymous with "deep ecology", which strives to achieve the unity of natural and spiritual principles. Here the author draws a connection with the spiritual traditions of Eastern wisdom (Eastern philosophy), cosmology, Christianity, and other philosophical concepts. Such fundamental concepts of the ecological plan as balance and harmony in integrity act today as an ideal to which one should strive and in the spirit of which, according to American scholars, it is necessary to educate the younger generation and improve the education system.

Methods

The methodological basis of this scientific article was based on the use of such methods of scientific research as analysis, synthesis, generalization, inductive and deductive methods as general methodological techniques. The complex, comprehensive, generalized analysis of the Russian pedagogical thought of the 19th century, its composition, structure, specifics, its main ideas and problems, its place in the general development of Russian pedagogy was the most important task of future historical and pedagogical research. To facilitate the implementation of this task as much as possible, we will draw attention to several unresolved problems that are not explained in historiography and what prevents their solution. First of all, the problem of continuity, which is equally relevant for historiography and the Russian school and pedagogical

thought, attracts attention. The concept of value determination of cognition, within the framework of which the socio-cultural approach is implemented, is becoming increasingly popular in the modern philosophy of science: at the methodological level, this is fixed in the context of considering the subject, his/her goals and values in cognition (V.S. Stepin). Such a reversal in the research of science is not accidental. It correlates, on the one hand, with the changed type of philosophizing, and on the other – with the formation of new scientific rationality and post-non-classical science. The very possibility of such a correlation raises the question of the factors that determine the way to write the history and philosophy of science. These are, apparently, the socio-cultural conditionality of the interpretation of science, the specifics of the philosophical orientation of the researcher, i.e., what kind of philosophy he/she adheres to.

Results

Education is one of the values of philosophical and pedagogical science. This scientific article was devoted to the study of this issue. Given the complexity of the subject of educational law, it should be noted that none of the branches of Russian law has a method of legal regulation that allows it to be extended to the educational sphere. In this regard, various methods of legal regulation are used in the field of education. In our opinion, the method of educational law can be defined as a mixed one, since it combines the methods of legal regulation of private and public branches of law: the dispositive method is used to regulate equal relations between a teacher and a student; the imperative method is used to regulate relationships related to the control functions of a teacher, the administration of an educational organization, educational management bodies at various levels. The complexity of determining the subject and method of education law is also connected with the history of the development of educational law. Until recently, educational law as an independent branch of law was not distinguished at all. The most common approach in the Soviet legal literature was the approach according to which educational relations were considered as a subject of administrative law since they were of a state, official nature, were a means of implementing state functions in the field of education. It was emphasized that "pedagogical relations" belong to administrative and legal relations of the "horizontal type", in which there is no direct power and subordination.

The researchers identify education as one of the most important, independent spheres of modern civil society. The realization of the right to education is conditioned by the needs of the individual, society, and the state in the development and preservation of science, culture, art,

literature. Through education, a person has the opportunity to develop and become a person, an individual who can act in his/her interests and in the interests of society and the state, to show his/her active civic position, to develop his/her own opinion on various issues of social development, to defend his/her point of view, to argue it, to develop and realize his/her creative abilities (BONDAREVSKAYA; KULNEVICH, 1999).

Discussion

New trends were outlined and developed in pedagogical historiography in the 1970s and 1980s, reflecting the deepening attention of researchers to the general problems of the history of education and pedagogy of the first half of the 19th century, especially to the theory of education and training. This, for example, was manifested in the appearance of several special works on the didactics of primary and secondary schools, on the influence of natural sciences on the development of Russian pedagogical thought, on its relationship with advanced foreign pedagogy etc. Interest in general problems is increasingly clearly exposed in personalized studies, which contain many valuable, albeit disparate, observations about the formulation by individual teachers of various issues of pedagogical and educational theory (BALIKA, 1968; ROTENBERG; SHABAEVA, 1960). From all this complex of works, the previously unrecognized face of Russian pedagogical thought of the first half of the 19th century began to gradually emerge, its underestimated (as noted by V. Ya. Struminsky) theoretical potential, its importance as an important stage in the formation of scientific pedagogy in Russia. However, this recognition still requires intense integrative work of the readers themselves, who are forced to independently recreate what is designated quite randomly and mosaic in the works of researchers.

Several different trends stand out in Russian cosmism: religious and philosophical (V. S. Solovev, N. F. Fedorov, S. N. Bulgakov, P. A. Florensky, N. A. Berdyaev etc.), natural science (K. E. Tsiolkovsky, N. A. Umov, V. I. Vernadsky, A. L. Chizhevsky, N. G. Kholodny etc.), poetical and artistic (V. F. Odoevsky, F. I. Tyutchev, A. L. Chizhevsky and others). The main components of legal development are legal literacy and the ability to respond quickly to the changing legal environment and the conditions (circumstances) of a particular legal conflict.

In our opinion, in the historical and pedagogical literature, even in recent years, there are still unexplored issues of certain periods of the history of the national school and pedagogy: Ancient Russia and the 18th century; the 18th century and the 19th century; the first half of the 19th century and its second half. In each of the subsequent periods, education and pedagogy

grow as if from scratch, are being built anew. Meanwhile, despite all the qualitative differences between education and pedagogical thought of these epochs, deep, internal ties were preserved and increasingly strengthened between them. Such a discontinuity of the unified line of development of domestic education and pedagogy is most of all a consequence of the disjointed and isolated study of various periods of its history. An insignificant step in overcoming this disunity, in particular between the 18th and the beginning of the 19th centuries, was made in "Essays on the history of schools and pedagogical thought of the peoples of the USSR. 18th – first half of the 19th century". However, he did not go beyond fixing a certain movement of didactic ideas in the legislative documents regulating the life of the school.

Researchers, at the best, indicate the presence of "pedagogical connections" between the historical periods of the first and second half of the 19th century. The only exceptions are, perhaps, the works of V. Ya. Struminsky about Odoevsky and I. A. Mesenyashin about Gugel, where visible threads are stretched from the named figures to the teachers of the 1860s. Another, no less important aspect of the problem of continuity is the internal connection of the processes of school development and pedagogical thought within each of the above-mentioned periods, in particular within the first half of the 19th century. Inattention to this side of the problem gives rise to conclusions similar to what was indicated earlier when considering the historiography of the lower level of the school system – about the beginning of the development of this level of school and Russian pedagogical thought only from the 30s of the 19th centuries. Researchers have yet to show what P. S. Anofrikova failed to do in the 1950s. in her dissertation devoted to the problem of the nationality of upbringing in Russian social thought in the 1930s and 1940s of the 19th century — why this problem arose and became relevant precisely in this period. It is necessary to reveal on concrete material the connection of this problem with the growth of the national self-awareness of Russian society, with the completion of the general process of the "formation of the Russian bourgeois nation" and Russian national culture in the first half of the 19th century.

No less promising is the consideration of this problem (as well as many others) in a comparative historical aspect, on Russian and foreign material, against the general background of European national educational processes. The comparative historical study of Russian pedagogical thought of the pre-reform era, as well as of the Russian school, of Russian pedagogy in general, is an urgent task that historians of pedagogy have not embarked on (DNEPROV, 1986). The problem of continuity is also directly related to the historiography of the most important, revolutionary trend in Russian pedagogical thought in the first half of the 19th century. The main attention of historians of pedagogy was paid to this direction in the late

1950s and early 1980s. However, as in previous years, it was considered mainly in a personified plan: 53 works were devoted to V. G. Belinsky, 32 to A. I. Herzen, 6 to N. P. Ogarev, 1 to M. V. Petrashevsky, 35 works to Decembrists. Such extensive personological research creates prerequisites for setting and solving the next level of the problem – for a holistic analysis of the revolutionary trend in education and pedagogy. The implementation of this task involves consideration of its two main aspects. First, it is necessary to identify and reveal the essence and specific features of this direction, its fundamental ideas, its evolution and enrichment from stage to stage, the new things that each stage has brought to it. Secondly, to show its influence on the general movement of Russian pedagogical thought, on the solution of the problems that faced it at different times (STEHR, 1996). The answer to these questions is not yet given by the historical and pedagogical literature. The task set in the early 1950s in the dissertation of Yu. D. Trukhachev to reveal the Decembrist stage in the history of Russian pedagogical thought, as already noted, has not yet been solved. Just as the more general task has not been solved – a concrete historical and theoretical analysis of the development of the revolutionary direction in Russian pedagogy, in its continuity from the Decembrist to the revolutionary-democratic and further to the social-democratic stage.

Legal education, training, and upbringing contribute to the development of the personality of a professional lawyer. However, this process is not spontaneous and self-evident, but a purposeful and thoughtful pedagogical result. That is why the quality and thoughtfulness (as well as the results obtained) of the legal education, training, and upbringing carried out will largely depend on the quality and effectiveness of the further legal development (throughout the professional life) of a lawyer, which he/she will mainly carry out independently in the process of active interaction with the environment (STOLYARENKO, 2000).

Conclusion

Philosophical and methodological research of science is set by what meaning they are trying to find in it. Therefore, new approaches constantly reveal to us its problematic depth. The positivist, scientist-oriented approach sought in science the owner of absolute truth, not burdened with the "prejudices" of metaphysics, worldview, morality, while this attitude itself was one of the "prejudices" of the modern era (GERSHUNSKII, 1998). This leads to methodological Autarky, which corresponds to the ideological appearance of classical science, its orientation to domination. However, this does not mean that classical science with its standards of rationality was not determined by socio-cultural circumstances and value

meanings. On the contrary, it just correlated with the program of the Enlightenment era, relying on rationalism, science, which, with the help of "impartial" truth, "point out" the ways to humanity (BASSNETT, 1991).

Historically, knowledge did not develop in a monopositional reality, for its emergence it was necessary to have different points of view, different activity positions. It existed only in a collectively distributed activity when each participant retained a certain aspect of the content. When creating an educational subject, the knowledge arranged in a complex way was translated into a form that existed independently of its carriers (LEAR, 1996). In the traditional classroom-based education system, it is difficult to reproduce the activity of obtaining knowledge, since only two positions are set – the one transmitting knowledge and the one receiving it. The activity content of education requires another form of organization of the educational process. An organizational and activity game can act as one of such forms (the concept was proposed by G. P. Shchedrovitskii) (SHCHEDROVITSKII, 1995). Games allow creating a practice for reproducing the activity of building knowledge (SCHWALLER, 1998).

Recommendations

The development of educational literature on educational law for students at pedagogical universities becomes relevant. However, the analysis shows that among the already small number of manuals on educational law, there are no sources that reflect the specifics of the legal regulation of the teacher's activity for students at pedagogical universities.

Legal competence is the willingness of a teacher to effectively use legislative and other regulatory legal documents in their professional activities to solve relevant professional tasks. The teacher must know the features of the legal status of educational organizations, the rights, and obligations of teaching staff, the rights, and obligations of students and their parents, as well as other features of the legal regulation of educational relations. It is this knowledge, skills, and competencies that are formed by the educational discipline "Educational Law". The independence of the branch of educational law remains controversial in the professional legal environment since there are difficulties in determining the subject and method of legal regulation. Therewith, the diversity and priority of educational relations, the dynamism, and volume of educational legislation make it necessary to recognize that in the Russian legal system, educational law is formed as a complex branch of law (similar to such recognized complex branches as housing law, environmental law, business law etc.). We will highlight its subject and method of legal regulation to distinguish the branch of educational law from other

branches of law. The subject of regulation of educational law is public relations in the field of education. Two groups of relations can be distinguished within the framework of relations in the field of education: the first group is educational legal relations, that is, a set of public relations in the field of education regulated by the norms of educational legislation, and the second group is public relations that are at the intersection of educational law and other branches of law: civil legal relations in the field of education (the legal status of educational organizations as legal entities, the right of operational property management, the provision of paid educational services, civil liability in the field of education); managerial (administrative) relations that arise between state educational management bodies of various levels regarding the regulation of the activities of educational organizations.

REFERENCES

- BALIKA, D.A. Shellingianstvo v pedagogicheskikh naukakh v Rossii 30-40-kh godov 19 veka [Schellingianism in pedagogical sciences in Russia in the 30-40s of the 19th century], **Uchenye Zapiski Gorkovskogo Pedagogicheskogo Instituta**, n. 74, 1968.
- BASSNETT, S. **Translation studies**. London, 1991; N.Y., 1991.
- BONDAREVSKAYA, E. V.; KULNEVICH, S. V. **Pedagogika: Lichnost v gumanisticheskikh teoriyakh i sistemakh vospitaniya**. Uchebnoe posobie [Pedagogy: personality in humanistic theories and systems of education. Textbook]. Rostov-on-Don, 1999.
- BUZAROV, K. I.; KUDAEV, M. R. Filosofsko-metodologicheskie korni "dreva pedagogiki" [Philosophical and methodological roots of the "tree of pedagogy"]. In: **Sbornik materialov Vserossiiskoi nauchno-prakticheskoi konferentsii "Problemy pedagogiki i sistem obrazovaniya"** [Proceedings of the All-Russian scientific-practical conference "Problems of pedagogy and education systems"]. Maikop: Publishing House ATU, 2002.
- DNEPROV, E. D. Metodologicheskie problemy istorii pedagogiki [Methodological problems of the history of pedagogy]. **Sovetskaya pedagogika**, n. 5, p. 98, 1986.
- GERSHUNSKII, B. S. **Filosofiya obrazovaniya 21 veka**. V poiskakh praktiko-orientirovannykh obrazovatelykh kontseptsii [Philosophy of education of the 21st century. In search of practice-oriented educational concepts]. M" Sovershenstvo, 1998.
- LEAR, E. **The book of nonsense and nonsense songse**. Penguin Books, 1996.
- ROTENBERG, V. A.; SHABAEVA, M. F. Svyazi Johann Heinrich Pestalozzi s Rossiei v pervoi chetverti 19 veka [with Russia in the first quarter of the 19th century]. **Sovetskaya pedagogika**, n. 8, 1960.

SCHWALLER, C. The Social effects of the millennium time bomb: Using the internet for social science research. *In*: IRISS CONFERENCE, 1998, Bristol. **Proceedings [...]**. Bristol, UK, 25-27 Mar. 1998.

SHCHEDROVITSKII, G. P. **Izbrannye trudy** [Selected works]. Moscow, 1995.

STEHR, N. The salt of social science. **Sociological Research Online**, v. 1. n. 1, 1996. DOI: <https://doi.org/10.5153/sro.1301>

STOLYARENKO, A. M. **Yuridicheskaya pedagogika**. Kurs lektsii [Legal pedagogy. Course of lectures]. Moscow: EKSMO, 2000.

How to reference this article

BESTAEVA, E. V.; GRISHNOVA, E. Y.; GRUDTSINA, L. Y.; DOGUZOVA, O. R.; SELEZNEVA, N. A. Education as a philosophical and legal category. **Revista on line de Política e Gestão Educacional**, Araraquara, v. 25, n. esp. 5, p. 2974-2983, Dec. 2021. e-ISSN:1519-9029. DOI: <https://doi.org/10.22633/rpge.v25iesp.5.15990>

Submitted: 13/03/2021

Required revisions: 23/07/2021

Approved: 19/11/2021

Published: 30/12/2021

Processing and editing by Editora Ibero-Americana de Educação - EIAE.

Correction, formating, standardization and translation.