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## **"A Solidarist Vision of Law and State in Léon Duguit's Thought"**

### **Abstract**

The subject of this dissertation is Léon Duguit's solidarist theory of law and state, taking into account the accompanying historical, social and political context covering the development of the meaning of solidarity in 19th century France. The main part of the dissertation consists of an attempt to reconstruct the thought of Léon Duguit with particular reference to how the French jurist understood law and the state. The dissertation, apart from a summary, introduction, conclusion and bibliography, consists of four main chapters.

In Introduction, I indicate the reasons why I have made Léon Duguit's solidarist vision of law and state the subject of this dissertation and why I have become interested in the problems of solidarity and French solidarism.

In Chapter 1, I focus on defining the concept (idea) of solidarity, including analyzing its meaning in linguistic terms, indicating the etymological source of the concept of solidarity, which is the Roman law of obligations, and showing the transformation process of solidarity from vertical solidarity to horizontal solidarity.

In Chapter 2, I show the process of transition from the idea (concept) of solidarity to its concrete implementation through a detailed analysis of the development of solidaristic concepts in nineteenth-century France. In doing so, I make a conventional distinction between three main stages in the development of solidarist concepts in nineteenth-century France, viz: 1789-1848 - solidarity as mysticism, 1849-1895 - solidarity: between mysticism and politics, and 1896-1914 - solidarity as politics. These considerations are concluded with an analysis of the consequences of the triumph of "Solidarism" in France at the turn of the 20th century.

In Chapter 3, I present the foundations of the solidarist vision of law and the state in the thought of Léon Duguit, showing the inspirations that guided its author and I analyse the basic concepts present in his conception such as the negation of metaphysical and abstract concepts, the negation of subjective rights and subjective law, the negation of the concept of the state of nature, the negation of the distinction between public and private law, the recognition of the concept of social fact, the recognition of solidarity as a social fact, the recognition of solidarity as the basis of a rule of conduct, the recognition of human collectivity as a social fact, the

distinction of individual consciousness and the negation of collective consciousness, and the distinction of the sense of community and justice, since a proper understanding of these assumptions is, in my opinion, essential and has an introductory character to the problems of Léon Duguit's solidarist vision of law and state.

In Chapter 4, I focus on a critical reconstruction of the French jurist's solidarist vision of law and state, classifying it and assessing that Léon Duguit's concept represented a revision of the hitherto role of law and state in legal thought. The concept of the Dean of Bordeaux is a synthesis of law and state, considering one and the other of these elements independently, while only being able to combine them. Examining the vision of law in Léon Duguit's thought, I analyse, among other things, the transformation of a social rule into a legal rule, show the characteristics of a legal rule, indicate the division of legal rules and describe the application of a legal rule, present positive law in Léon Duguit's conception and juxtapose Léon Duguit's solidaristic conception of law with the conception of natural law. Furthermore, I address the issue of the state in the French jurist's thought by analysing the concept of the state in Léon Duguit's concept, i.e.: presenting the state as a product of political differentiation, coercion and solidarity, examining the negation of the concept of state subjectivity and sovereignty, presenting the subordination of the state to objective legal rule, discussing the functions of the state in Léon Duguit's concept, describing the elements of the state in Léon Duguit's concept, and analysing public service as an expression of the transformation of law and state in Léon Duguit's concept. I then demonstrate the novelty and revolutionary nature of the French jurist's solidarist vision against the background of his legal contemporaries and present the relevance of Léon Duguit's solidarist vision of law and state in a contemporary perspective, referring also to the current relevance of French solidarist concepts in general.

The work concludes with a "Conclusion" and a "Bibliography".

**Keywords:** solidarity, solidarism, Léon Duguit, theory of law and state, philosophy of law, sociology of law