

POLICE SCIENCE AS A SOURCE OF MODERN ADMINISTRATIVE SCIENCES

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Summary. It was the science of police (Ger. *Polizeiwissenschaft*) that first endeavoured to offer a comprehensive understanding of the organisation and operation of public administration. It stemmed from the cameralist doctrine which combined, in addition to administrative management, a broad and not-at-all systemic set of knowledge of economics, finance, statistics, demography, economic policy of the state, and even philosophy. While cameralism mainly put emphasis on economics and approached administrative issues only as a means of efficient fiscal and economic administration of the state, police science, which was under the influence of the law of nature, addressed the development of a system of methods and measures employed to shape the structure of public administration in the modern state.

Key words: police science, administration, administrative law

The arrival of modern administrative science was intertwined with the systemic transformation of the state ruled by public law that occurred in the 18th century under the influence of Enlightenment philosophy. The transformation processes were triggered by the crisis of the social, economic and organisational framework of the feudal state, which caused all these areas of human activity to go through reforms aimed, in particular, to create a new, well-oiled state apparatus. This was possible only through the employment of such methods and forms of state organisational activity as never before. The said transformation swept across most European countries of the time, yet it was the most profound in the absolute monarchies of France and Germany.¹

The public-law-based character of state control in absolute monarchies was largely evolving in relation to the previous period. The state became a universal interest, and the monarch was no longer only seen as an entity vested with authority but, above all, as an entity obliged to grow the power of the country

¹ For more on the absolute state, see Hof 1995, 198–202; Black 1997, 398–462; Baszkiewicz 1998, 177–207; Idem 1999, 58–86; Grodziski 1998, 143–48; Szczaniecki 1994, 208–99; Koranyi 1966, 253–410.

and contribute to the well-being of their subjects. As a consequence, the monarch's role went far beyond the traditional military and judicial functions and began to cover primarily legislative and administration activities. As Marek Wąsowicz aptly pointed out, "in the concept of power, dominance and control give way to organisation and administration" [Wąsowicz 1998, 97]. That trend fell within the assumptions of Enlightenment philosophy which treated the monarch as "the first servant of the state," guided by reason to contribute to the universal prosperity and well-being of subjects (eudaimonion). To achieve that goal, the ruler was granted an arbitrary right to control all areas of public activity of the state, even at the cost of interference in subjects' private life.²

Expanding the organisational and administration functions of the state ruled by public law entailed the need to reinvent its administrative services and make them operate like a centralised bureaucratic apparatus. In practice, a unified system of administrative bodies emerged embracing the entire territory of the state, acting empowered by the ruler and performing specific entrusted task within isolated state administration departments on behalf of the crown head and on a permanent basis. That new administrative apparatus was to be rested on the professional body of skilled civil servants employed and salaried under public law (by nomination) and whose legal status was set out in separate provisions, the so-called official pragmatics. The country's administration was to operate through specialized domains (ministries or departments) and reflect a strictly hierarchical structure fully subordinated to the monarch – the only power centre in the state (centralisation) [Seidler 1983, 41–49; Capra 2001, 325–61; Malec and Malec 2000, 29–61; Izdebski 1997, 36–42].

A fundamentally important novelty in the operation of the administrative machinery of the absolute state was the desire to make it embody the attributes of legalism, i.e. to subordinate the entire management of state affairs to law. It was expressed in the idea of *despotisme legal* devised by the French

² Prussian King Frederick II wrote about the ideal and duties of an absolute ruler as follows, "The monarch must put the well-being of his peoples above all other affairs. He should create or grow their success and happiness [...] The monarch is merely their first servant, an instrument of their happiness. [...] a Prince should think how to create the happiness of his peoples. A happy nation will not be inclined to revolt as they fear more of losing their ruler and benefactor than he himself is afraid of losing his power. [...] They vegetate on thrones that they are unworthy to occupy, absorbed as they are in self-indulgence. A sovereign has not been raised to his high rank, the supreme power has not been conferred on him, to live softly, to grow fat on the substance of the people, to be happy while all others suffer. The sovereign is the first servant of the state. He is well paid in order that he may sustain the dignity of his office, but one demands that he work efficiently for the good of the state." See Frederick II, *O ideale i obowiązkach władcy absolutnego*, in: *Wiek XVI–XVIII w źródłach. Wybór tekstów źródłowych z propozycjami metodycznymi dla nauczycieli historii, studentów i uczniów*, ed. M. Sobańska–Bondaruk, S. Lenard, Wydawnictwo Naukowe PWN, Warszawa 1999, p. 391–92.

physiocrats. Legal absolutism rested on laws enacted by the monarch (the so-called general norms) was to be distinguished from arbitrary absolutism deprived of such a quality. The principle of legalism in the states of enlightened absolutism took the form of monarch's self-limitation as they were the sole source of legislation above applicable law. That also meant that boundaries had to be set for the operations of bodies controlled by the ruler or acting on their behalf. In this way, certain legal guarantees were created that legitimised the power apparatus [Gromadzka–Grzegorzewska 1985, 11; Malec and Malec 2000, 23–24].

The analysed processes occurred almost simultaneously both in states headed by absolute rulers and in the so-called “enlightened republics.” In France, they took the form of *monarchie administrative* while solidifying the organisation and forms of operation of the administrative apparatus developed during the reign of Louis XIV and incapable of any social and economic reforms.³ In the Habsburg monarchy, during the time of Maria Teresa and Joseph II, as well as in Prussia under Frederick II the Great, they led to a profound reconstruction of the administrative structure of the country, and, owing to limited reforms eliminating the most conspicuous relics of the feudal system, they postponed political crises by almost half a century. To a limited extent, the same processes occurred in Russia under Peter the Great and Catherine II where the administration, developed in isolation from the domestic tradition, managed to retain its basic qualities – going back to the 18th century and almost unaltered – until the decline of the monarchy in the second decade of the 20th century. In the so-called “enlightened republics,” such as Sweden or Poland, the effect of these processes was seen in attempts to streamline state administration structures by adopting methods typical of bureaucratic administration and to entrench the principle of subordinating the parliamentary representative body to the governing law and the will of the ruler [Salmonowicz 1998, 116–215; Bazylow 1985, 305–17, 338–40; Wereszycki 1986, 128–53; Maciejewski 2002, 112–20; Izdebski 1997, 24–26].

It was the science of police (Ger. *Polizeiwissenschaft*) that first endeavoured to offer a comprehensive understanding of the organisation and operation of public administration. It stemmed from the cameralist doctrine which combined, in addition to administrative management, a broad and not-at-all systemic set of knowledge of economics, finance, statistics, demography,

³ One of the key French physiocrats, Vincent de Gournay (1712–1759), who coined the term “bureaucracy,” explained the reasons for stagnation of absolute administration in France as follows, “The real spirit of the laws in France is bureaucracy. Here the offices, clerks, secretaries, inspectors and intendants are not appointed to benefit the public interest, indeed the public interest appears to have been established so that offices might exist.” Quoted after Seidler 1984, 197. In addition, the same problems are examined in detail in: Baszkiewicz 2002, 9–42.

economic policy of the state, and even philosophy.⁴ While cameralism mainly put emphasis on economics and approached administrative issues only as a means of efficient fiscal and economic administration of the state, police science, which was under the influence of the law of nature, addressed the development of a system of methods and measures employed to shape the structure of public administration in the modern state [Langrod 1948, 68].

Police science emerged independently in France and German countries. At the outset, it differed both in terms of the research method and the manner of achieving goals. In German countries, it was mainly confined to theoretical or philosophical inquiries aimed at creating a “welfare state.” In contrast, in France it focused on the compartmentalisation and discussion of existing regulations and practices of the internal state governance, assuming the form of an administrative policy model. The term “police” in the French state referred to a condition whereby the affairs of the state were in order and properly managed. In Germany, in conjunction with good governance, security and mutual benefit, it meant the right and attention of public authorities to create and maintain public affairs in order and care for the welfare of state subjects [Leśnodorski 1971, 30–32; Malec and Malec 2000, 55]. Based on its assumptions, the entire internal administration of the state was the responsibility of the police, and any enacted legal acts (police regulations) were aimed to secure a far-reaching control of public and social relations of state subjects, including of their private life. Consequently, the concept of “police” originally covered not only the affairs of security and public order but also other issues of the internal state governance, thus becoming synonymous with internal administration [Janicka 2002, 44–48; Izdebski 1997, 31; Gromadzka–Grzegorzewska 1985, 16].

The first police scientist and a forerunner of administrative science in France was Nicolas Delamare (1639–1723), the author of the four-volume

⁴ Unlike most authors exploring the history of modern administrative thought who do not regard cameralism as an administrative science, Franciszek Longchamps de Berier and Zbigniew Leoński broaden this concept to include police science, and they distinguish three phases of cameralism: 1) the phase of influence by mercantilism when cameralists mainly addresses economic issues and articulated views on the economic police of the time as well as proposing ideas on the organisation of economic administration and state’s economic policy; that phase can be viewed as cameralism proper; 2) the phase of influence of the school of the law of nature when cameralists’ works highlighted the aspirations of enlightened absolutism in German countries, on the one hand, aiming to strengthen monocracy by removing the remains of the feudal state and justifying the increasing state interference in more and more areas of the life of an individual and, on the other hand, to limit the same monocracy by the ideas of the social philosophy of the Enlightenment aligned with the ideals of wealthy bourgeoisie: that phase can be viewed as police science; 3) the phase of attempts to reconcile cameralism with the doctrine of constitutionalism of the early 19th century; they intended to combine themes specific to cameralists (police scientists) with the dogmatic science of constitutional law influenced by French constitutionalism [Longchamps de Berier 1991, 18; Leoński 2000, 3].

Traité de la police published in 1719–1722 [Delamare 1719–1722]. Delamare was a practitioner (assistant to La Reynie, the first Lieutenant General of the Paris police). Hence, he was far from putting forward theoretical ideas and focused on providing an account of his contemporary administrative reality and analysing existing administrative acts. Consequently, his work was more of a textbook containing a set of recommendations to guide the state administration in the name of the eudaimonistic philosophy of subjects' prosperity and well-being. Although many later authors, just to mention Oczapowski or Tarasow, challenged the scientific character of Delamar's work, Jerzy Malec points out that, "Delamare's effort was among the first analyses in the field of internal governance of the state; it was at the time when German police science had not yet managed to go beyond philosophical and legal deliberations, so far from the effective understanding of tasks and goals of the police" [Malec and Malec 2000, 60; Oczapowski 1882, 81–84; Tarasow 1891, 14].

In Germany, the first work on of police science was the monumental undertaking of the nine-volume work by Christian Wolff (1678–1754), *Ius naturae et gentium metodo scientific pertractatum*, dated 1740–1749 [Wolff 1740–1754]. As an apologist of enlightened absolutism in Prussia under the reign of Frederick II, he advocated the principle of absolute primacy of the state, omnipotent in all areas of internal administration and empowered to interfere even in the private life of individuals, yet indispensable, in his opinion, to ensure happiness and decent standards of living of the general public. Among other police scientists, he proposed a distinction between the welfare police (*Wohlfahrtspolizei*) and the security police (*Sicherheitspolizei*), the latter closely linked to the justice system. By doing so, Wolff laid the foundations of the eudaimonistic philosophy of the welfare state ensured exclusively by the administrative apparatus as the guardian of states' subjects. That doctrine drove the evolution of the German administrative thought that prevailed across the entire 18th century [Oczapowski 1882, 62–75].

The crowning achievement of German police science was the works of two scientists, Johann Heinrich von Justi (1702–1771), professor at the University of Göttingen, and Joseph von Sonnenfels (1733–1817), professor at the University of Vienna. They offered the first comprehensive and coherent system of police science. Justi's basic thesis, advanced in his work, *Grundsätze der Polizeywissenschaft*, published in 1756, was to establish a close connection of the political state with the subjects' standard of living was to be held co-responsible for the state on a par with the monarch [von Justi 1756; Idem, 1758]. Unlike most police scientist, Justi sought to redefine the role of the police in the state by denying it the status of the exclusive tool to control internal relations at the sole disposal of the autocratic and absolute monarch. The primary function of the police in relations between the state and the public was that of intermediation in order to ensure peace and security for the subjects

and cater to their happiness and prosperity. By fulfilling such a role, the police was seen as acting on behalf of the general public while being deprived of the attribute of exercising and serving them regardless of the volatile temperament of the monarch. According to Justi, the police should address three sets of areas: the national economy, the nutritional situation in the population and the degree of subjects' compliance with the law and customs. The police should handle such tasks with non-coercive measures, for example, statistics and records of the population, improvement of the conditions of urban and rural development, trade, manufacture (but without direct state's intervention in economic activities), land management, etc. Extremely valuable in Justi's findings was a clear and pioneer distinction between the police and police science, which in the future would provide the underpinning for a separate science of administration and administrative law" [Oczapowski 1882, 85–145; Langrod 1948, 71–72].

The other of the German classics of police science, Joseph von Sonnenfels (1733–1817) stressed the functions of the state related to law enforcement and maintaining order and internal security [von Sonnenfels 1765–1769]. In his view, the police was primarily to ensure security (security police), and its interference and the use of means of coercion in other areas of public life was to be confined. That was how Sonnenfels closely linked police science to the goals of the absolute state in which the police was to guard and represent the interests of the state and not of the general public. Based on the assumptions of eudaimonistic philosophy, Sonnenfels saw the protective role of the state at play in four areas to which he assigned the following scholarly disciplines: politics covering the external security of the state; police science covering internal security; trade science offering guidelines as to the economic situation of the population and finance science addressing treasury and fiscal matters. An evident attribute of Sonnenfels's doctrine was, therefore, to seek full unification of the police with the operation of the absolute state apparatus while Justi tried to make it independent and let it work for and speak in public interest. In addition, Sonnenfels aptly combined the Catholic and absolutist traditions with the ideas of the law of nature, as a result of which his work gained the official approval of the Austrian authorities, which recommended it as a compulsory academic reading until 1846 [Oczapowski 1882, 145–60; Maciejewski 2002, 132–33].

The last in the list of great police scientists was Gunther Heinrich von Berg (1765–1843), professor at the University of Göttingen and minister in the Duchy of Oldenburg. In his eight-volume work, *Handbuch des deutschen Polizeirechts*, published in the years 1799–1809, he made the first attempt at systematising police law in Germany. His approach was methodologically coherent though rather responding to the needs of administrative practice [von Berg 1799–1809]. He was unlike his predecessors in his opinion of the scope

of absolute power and drew a dividing line between its two separate areas of activity: administering and policing. The latter he reduced only to a protective role, i.e. preventing and combating any violations of the legal order, at the same time allowing the state to choose the means of doing so (so-called “freie Konvenienz”). This division gained recognition in the literature on the subject in the following century when the concepts of “police” and “administration” were attached their contemporary meaning. In addition, Berg did not ignore, at least in part, newly emerging liberal ideas and departed from the eudaimonistic understanding of the tasks of the absolute state (“forcing” the well-being of its subjects) in favour of the protection of the subjective rights of the individual (“To harm individuals for the benefit of the general public is censurable”) [Langrod 1948, 70–71; Malec and Malec 2000, 58].

Besides the luminaries of police science listed above, there was a large number of scholars whose output contributed, although to a lesser extent, to the development, and especially the promotion, of the idea of police state in the 18th century. They were: Johan Stephan Pütter (1725–1805), professor at the University of Göttingen, author of *Elementa Iuris publici germanici* published in 1754; his definition of police was adopted in Prussian Landrecht; Johan Jacob Moser (1701–1785), professor at the University of Tübingen, author of the 20-volume work, *Deutsches Staatsrecht*, published in the years 1737–1753; Johan Friedrich Pfeiffer (1718–1787), professor at the University of Mainz, author of *Natürliche allgemeine Polizeiwissenschaft* published in 1789; Karl Gottlob Rossig (1752–1805), professor at the University of Leipzig, author of *Lehrbuch der Polizeiwissenschaft* published in 1786; Heinrich Jung (1740–1817, professor at Hohe Kameral-Schule in Kaiserslautern and the University of Heidelberg and the University of Marburg, author of *Grundlehre der Cameralwissenschaften* published in 1789; Friedrich Fischer (1750–1797), professor at the University of Halle, author of the three-volume work, *Lehrbegriff samtllicher und Polizeirechte in Deutschland* published in 1784 [Pütter 1754; Moser 1737–1753; Pfeiffer 1789; Rossig 1786; Jung 1789; Fischer 1784].⁵

In conclusion, despite all the effort, police science did not contribute to the formulation of general guiding principles to govern a model system of public administration. Still, it helped produce a collection of means and methods shaping the modern structure of state administration. This was mainly attributed to the following reasons: 1) the absence of a bilaterally effective system of norms of administrative law; the state’s activity in matters of internal governance was not yet completely covered by the provisions of the law, the observance of which would have been binding both on the citizen and the respective administrative body; 2) a conviction commonly shared among police

⁵ The output of these authors is discussed by: Oczapowski 1882, 161–222; Langrod 1948, 69–74.

scientists that the authoritarian legislation had positive outcomes as being executed by the absolute monarch under *ius politiae* and not recognizing (at least initially) the need to respect the individual's subjective rights in relations governed by public law; the monarch's right and duty was to pursue a policy intended to ensure security and well-being of subjects in which the paramount interest of the state was equalled to that of the general public, and 3) limitation of the objectives of police science: on the one hand, to justify, based on the doctrine of the law of nature, the broad extent of absolute power authorised to interfere in the private life of subjects in the name of *raison d'être* eudaimonistic philosophy and, on the other, to develop the general principles of the policy of state and society administration by employing the descriptive method that was limited only to the analysis of the existing administrative reality.⁶

Nevertheless, attempts at offering theoretical generalisations made by 18th-century police scientists based on the arduous description and systematisation of the individual areas of activity of administration of the absolute state, at times supplemented with an analysis of applicable legal provisions, created the basis for the development of a separate science of administration and administrative law in the following century. In addition, the emergence of police science promoted the development of such state activities as social assistance and healthcare, education, population movement records, fire protection, giving rise to the concept of service administration [Langrod 1948, 74; Gromadzka–Grzegorzewska 1985, 20].

The science of the police remained closely related to the absolute state in which it gained the status of the official political and legal doctrine and made it to university curricula.⁷ As Hubert Izdebski notes, “The programmes

⁶ As Józef Oczapowski put it from the perspective of the late the 19th century, “Despite their developmental efforts, the theoretical research of police scientists were not able to go any further beyond a mere description, and, because in the police system, administration is a patchwork of various, often conflicting types of public and private activity, in its description issues and dimensions tend to overlap; it is then something of half-science and half-routine” [Oczapowski 1882, 9–10].

⁷ Initially, police science was taught within cameralist departments. As early as in 1727, Prussian King Frederick William I established first such departments at the University of Halle and the University of Frankfurt (am Oder). In 1730, a similar department was formed at the University of Rinteln, Hesse. In Leipzig, lectures on cameralism were inaugurated in 1742, and then a separate department was created for the subject. With time, cameralist departments were established at almost all German universities, e.g. in Göttingen in 1755 and in Ingolstadt in 1780. In Tübingen and Heidelberg, which ran separate cameralist departments, they were incorporated into the university structure. It was similar in the universities in the Habsburg monarchy. The department of cameralism were founded at the universities in Vienna (1752), Prague (1763), Friborg, Innsbruck and Klagenfurt – all in 1768, and in Lviv in 1784. In the Russian Empire, the departments of police law were established as from 1835; initially, they were known as good governance and well-being departments to be renamed as the department of police law in 1863 [Malec and Malec 2000, 58–59; Maciejewski 2002, 133].

of police scientists assumed the strengthening of the police state – one that worked for the people but without the people and sometimes even against their will” [Izdebski 1997, 31]. Police sciences shared enthusiastic faith in the beneficial effects of authoritarian legislation that influenced the administrative practice of the state that was turning a police state (*Polizeistaadt*). Their proposed division of employed measures into those aimed at ensuring security and prosperity survived the longest in Russian science where, until the early 20th century, the science of administration and administrative law, known as police law, had been slowly adopting the already established ideas of the constitutional rule of law [Gromadzka–Grzegorzewska 1985, 18–19].

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NAUKA POLICJI JAKO ŹRÓDŁO NOWOŻYTNYCH NAUK ADMINISTRACYJNYCH

Streszczenie. Pierwszą próbę kompleksowego ujęcia wiedzy o organizacji i funkcjonowaniu administracji publicznej przyniosła nauka policji (policystyka). Wywodziła się ona z doktryny kameralistycznej, łączącej w sobie – obok zagadnień z zakresu zarządu administracyjnego – szeroki, ale nieusystematyzowany zbiór wiedzy z takich dziedzin jak ekonomia, finanse, statystyka, demografia czy polityka gospodarcza państwa, a nawet filozofia. O ile kameralistyka kładła nacisk głównie na kwestie ekonomiczne, traktując zagadnienia administracyjne jedynie jako jeden ze środków sprawnego zarządu skarbowego i gospodarczego państwa, to pozostająca pod wpływem prawa natury policystyka koncentrowała się na tworzeniu systemu środków i metod kształtujących strukturę administracji publicznej państwa nowożytnego.

Słowa kluczowe: nauka policji, administracja, prawo administracyjne

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