

Law and Person: Modernity and Forecasting

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Abstract: This study will investigate the efficiency of law, considering the relevant objective and subjective factors. The authors would like to emphasise that in no case this publication is intended to cast doubts on the universality of legal provisions, but rather, on the contrary, to emphasise it; as well as to emphasise what modern law must demonstrate nowadays, so that no such doubts arise in relation to this paper. The law itself is not effective – it is free people, who are subjects of law in their relations. A free person is an intelligent being who has the will, the gift of thinking, is capable of producing tools and can consciously use them. However, the mere biological in human does not define it as a person. Personality is described by a combination of biological content and social qualities. That is why the latter acts as a legal subject that embodies the legal existence, the principle of law, and acts as its carrier and implementer. An important issue in this context is the clear delineation of concepts such as progress, progressive change, and the usual (appropriate) standardisation, the proper performance of a certain phenomenon of its mandatory functions. In this study, the authors will try to answer the extent to which the law demonstrates its relevance in the life of the average person, civil society, the state to address certain contemporary issues.

Keywords: Person, social regulators, reforms, legal provisions.

INTRODUCTION

At the present stage of development of Ukrainian state formation, a person becomes an equal subject of social relations together with the law, the state, and its bodies and officials. Considering the essence of the interaction between the state and law, the theory of state and law as a science and academic discipline separately studies the human, the individual, the person through the lens of the interrelations between person and law. Although it is no secret that it is scientists who have formed their ideal vision of understanding the law as the most effective regulator of social relations.

However, the authors state once again that the “book” or “textbook” reality and the real meaning of this phenomenon, which exists “today, in the here and now” are often not identical categories, but the determining role in this type of interaction belongs to positive law, which through legal mechanisms ensures the stability and development of society to prevent confrontations and divisions in the middle of the latter. The study of this component of interaction constitutes the relevance of the subject matter.

The study of the category of “law” has been investigated since ancient times and has always been the focus of philosophical and legal thought. Understanding of this phenomenon occurs during the development of dogmas of Christian teaching. The idea

of equality in law is studied from the standpoint of philosophical understanding of this category in the works. The latest legal literature forms the idea of law as a phenomenon of social reality, according to which the correlation between law and the legal system is studied Gusarev and Potapov (2008), Tikhomirov (2012), Kresin and Savchuk (2013), Onishchenko and Tarakhonych (2019).

The functions of law are in the view of Babkin (2013), Kopylenko (2017), Petryshyn (2014), Shemshuchenko (2010), and others. Sources of law are widely studied as well Parkhomenko (2009), Skrypnyuk (2010), Boginich (2019). A separate area of research lies in the correlation of law with legal practice, in particular the decisive role of a person in this process, as the main subject for which the latter was created Kuznetsova (2013), Selivanov (2004).

The purpose of the study lies in stating the fact that the essence, differences of law and its impact on person are conditioned by various factors – economic development, geographical location, dominant climate, presence or absence of wars, etc., i.e. many influences on the development of law as a social phenomenon in historical retrospective; law cannot be considered once and for all existing “fixture”, some dogmatic basis, “tracing paper”, which is reproduced by different legal orders or political regimes.

FEATURES OF LAW AS A REGULATOR OF SOCIAL RELATIONS

Upon describing the interaction between person and law, it is worth noting that the law itself is not effective.

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Effective are the free people who are subjects of law in their interrelations. A free person is an intelligent being who has the will, the gift of thinking, is capable of producing tools and consciously using them. An individual is a specific person with their natural properties (talents, shortcomings). In person, as an individual, there are biological and social qualities.

The biological in person, which is part of the material world, comprises its natural basis, described by the presence of the body, sense organs, natural physical strength, and other biological qualities. However, it is only the biological in human that does not define it as a person. A person is described by a combination of biological content and social qualities, which is why the latter acts as a legal entity that embodies the legal existence, the principle of law, and acts as its carrier and implementer. Therefore, the legal capacity and legal personality of people are the legal features of free individuals in their interrelations, as well as the necessary forms of exercising this freedom of people, i.e. the existence of law.

At present, law is seen solely as an institution of justice, the truth of the reflection of various interests of social communities, including as a factor of partnership or confrontation between the state and civil society. It is designed to contain a reasonable balance, i.e. a rational correlation of state will and the will of citizens who make up the population of the state, and such a balance can be achieved only in the context of the socio-cultural dimension of positive law (Lutskyi, Lutskyi, and Lutskyi 2020). That is why there is every reason to consider the law as a container of certain values corresponding to a certain state and social development.

Having grouped some opinions of legal scholars on the value load of "law", it is advisable to display the most relevant and characteristic of them:

- 1) law is a defender against the arbitrariness of the official, a guide to the space of freedom, security, and justice (Treaty on the Functioning of the European Union (2012), Part 1, Article 67);
- 2) law is a necessary condition for life and development of society;
- 3) law is an effective means of protecting the existing social order;
- 4) law is the expression of justice, the determinant of the measure of individual freedom;

- 5) law is a means of legal educational influence, a factor of progress that develops those social relations in which society is interested;
- 6) law is a tool for the transition to new economic and political relations, solving modern global problems (Shemshuchenko, Onishchenko, and Zaychuk 2013).

The authors would like to emphasise once again that law in these approaches is repeatedly described as a factor of progressive social change. In this regard, the authors will attempt to explain this: nowadays, our requirements for the law are embedded in a fairly simple formula: "Law is a container of human rights, freedoms, and legitimate interests"; "Law is a defender against the arbitrariness of the official"; "Law is a guide to the space of freedom, security, and justice". If the first two positions are invested in the functional capacity of law, i.e. the due proper performance of functions, the third is a quality that must be embodied in the legal fabric, given the main course of state changes of today. Thus, the differentiation of law (lawful relief of the legal status of the subject under current law, if it deserves it) can be considered as a corresponding effect of law in a civilized country; positive responsibility can be considered in a given context as a behavioural progress embodied in law.

Thus, simply put, the criteria (factors) of progress in law are as follows:

- 1) maximum approximation to the state of freedom, justice in society;
- 2) the fullest satisfaction of broad needs, including the self-fulfilment of each person;
- 3) not only the proclamation, declaration of a wide scope of rights, freedoms, and legitimate interests, but also their real guarantee, i.e. provision and protection at all levels;
- 4) stable law and order, strict implementation of the rule of law in all spheres of human life;
- 5) it is a steady and stable economic progress;
- 6) assurance and full implementation of the civilisational canons of human dignity;
- 7) awareness by everyone of involvement (belonging) to an active, mature civil society that is developing in partnership, rather than confrontation with the state;

- 8) the appropriate level of innovation processes in all scientific areas (in this context, legal science).

Thus, the authors would identify the subject of relevance of law as a regulator of social relations (its impact on man) in the context of the latter's ability to make positive changes as one of the interesting and understudied topics of general legal use (accordingly, providing certain determinants of such a definition, or the efficiency of the law, considering the corresponding factors). The authors would like to immediately emphasise that this publication is in no case intended to suggest doubts regarding the universality of legal provisions, but rather, on the contrary, to emphasize it: what modern law should demonstrate nowadays, so that such doubts do not arise.

Unfortunately, the issues of legal nihilism, legal pessimism, legal ignorance, as a rule, do not leave the legal discussion platforms. However, currently it is clear why these phenomena not only do not disappear, but become more common and widespread. Thus, to what extent does the law demonstrate its relevance in the life of the average person, civil society to address certain issues? Thus, under the relevance of law as a social regulator, the authors propose to understand, first of all, its ability to effectively perform regulatory and protective functions. The main "measure" of the relevance of the law for each existing array of legal provisions is the effective provision, protection, and defence of the rights, freedoms, and legitimate interests of the average person.

ANALYSIS OF APPROACHES TO THE STUDY OF THE COMMUNICATIVE COMPONENT OF LAW

In every legal environment, the law performs its respective functions. However, as has been repeatedly emphasised, their "regulatory" or "protective" action vary in different societies and different chronological boundaries. That is, the law, as the most effective regulator of social relations, shows different functional "load" in different societies concerning the regulatory or protective process. However, most modern scholars in their findings prefer the regulatory function of law. The authors would like to note that the need to protect public relations will remain as long as society and these relations exist. Paying tribute to these functions and their role, the authors want to say a few words about the communicative function of law, which currently occupies one of the leading positions in the system of functions of law.

The communicative component constitutes a necessary condition for political processes, legal regulation, and, ultimately, overcoming social conflicts, reaching a compromise, functioning and development of civil society. Nowadays it is impossible to complain about the complete lack of scientific developments, scientific achievements in the study of communication as such. However, the legal context of this issue is, unfortunately, insufficiently presented and has only recently started to be studied intensively in modern legal science. It should be noted that, of course, legal science with the help of legal education and upbringing is starting to increasingly influence the public consciousness, and its state determines the basic principles of legal communication.

As noted in modern science, philosophical and legal scientific understanding of the phenomenon of social and legal communication of state power and society constitute an urgent task of ensuring democratic change in Ukraine. Unfortunately, the prevalence of the institution of the state over the institution of person continues to gain momentum in the modern world. However, the very guarantee and provision of human rights requires not a forced but a constructive, parity type of communication in the rule of law of modern Ukraine.

A special place in communication belongs to legal communication – authoritative information, which expresses (and, accordingly, formulates) a certain worldview. The informative capacity of law is one of the essential factors that allows to assign it to the elements of the spiritual culture of society. There is no doubt that the law first and foremost arises not as an informant, but as a regulator of public relations. The state and society have enough channels through which the subjects of law are informed. However, the law, as a regulator of public relations, simultaneously acts as an informant for their subjects. Thus, the law performs a communicative function along with its purely legal tasks, also acquiring informational quality. This is manifested in its social nature, the ability to influence the will, consciousness, and psyche of a person, to be fulfilled through human perception.

The communicative function of law ensures that the participants in legal relations receive information about the state's position on the necessary, permitted, or prohibited behaviour. The social life of individuals is organically linked to the receipt, perception, assimilation, and use of such information. Legal information constitutes a type of social information.

With the help of legal provisions, the state informs the participants of public relations about the position of public authorities regarding the necessary, permitted, or prohibited behaviour.

Thus, it is currently necessary to speak of the communicative potential of law and the exchange of the necessary standards set by law between society, the state, individual societies, and individuals. Of course, these approaches to the study of the communicative component of law cannot exhaust all the diversity of the issue. However, its analysis will undoubtedly serve the increase of the effectiveness of the communicative capacity of law concerning the appropriate regulation of public relations, the widespread use of the communicative potential of law in the constitutional process of modern Ukraine.

CONCLUSION

Thus, by proposing a general conclusion, the authors want to underline that the phenomenon of law, in particular, is most closely related to human nature, its essence and meaning of human existence, and the changes currently taking place in the legal framework of Ukraine relate to qualitative renewal, transformation, reform of law. It is not just intentions or wishes, but an urgent necessity of life, organically connected with the choice of European integration of our country. After all, national law in Ukraine has long differed significantly from the law of European countries, especially in its "spirit", its ideology: in European countries it is aimed at ensuring human rights and interests; in Ukraine it has been for a long time aimed at meeting the needs of the state, public administration, state apparatus, and its officials. Law as a factor of reform changes must testify to its effectiveness and efficiency.

Thus, it should be understood that the law acts, on the one hand, as an object of reform, on the perfection, effectiveness, the constructive nature of which depends the effectiveness of reforms. On the other hand, it is clear that the law constitutes a factor, a means of reforming public relations and reflecting the results achieved, as well as their standardisation and appropriate consolidation. In this way, in modern conditions, the law should reflect both the challenges of

the time and the demands of civil society, and most importantly, implement the changes needed by civil society, the average person, and the state.

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