

THE MAIN THEORIES OF VALUES AND ASSESSMENTS FROM THE PERSPECTIVE OF THE PHILOSOPHY OF LAW

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Abstract

The article discusses the main conceptual approaches to values and assessments in the philosophy of law, as reflected in the legal and political teachings of classical and contemporary authors. Particular attention is paid to the nature and content of legal values and its relationship with positive law and the existing legal system. Legal values constitute an important component of the philosophy of law and have significant practical importance in legal application.

Keywords: Values, legal values, evaluative legal theory, legal and political teachings, conceptual approaches.

Introduction

Conceptual approaches to values, including legal values, began to take shape back in the ancient era, but value consciousness was destined to become the leading worldview of the new era, which opened a new millennium in the new historical era (Zarikyan, 2024).

There are three main explanations of the relationship between spiritual values and social systems. The first concerns ideals, the embodiment of values in existing reality (Plato, Hegel, and Kant). The second approach claims the opposite, namely that the conditionality of ideas and values is conditioned by material existence (K. Marx). The third does not condition one with the other, but asserts the fact of mutual adaptation of elements in a living socio-culture, in which ideological values participate in social processes together with other elements.

The main forms of worldview are myths, beliefs, and ideologies. Each of these forms has had its ups and downs, periods of peaceful life and fierce struggle within the framework of human civilization. Currently, the world is experiencing a pluralism of the foundations of value worldviews, which puts the issue of their mandatory communication and coexistence on the agenda. In this case, such communication should take place in the language of values. One can agree with the opinion that values are born from liberal-democratic ideology. The values of freedom of reason, civil equality, rights and freedoms do not always appear in the sphere of consciousness of the struggle with other values, and therefore condition only humanitarian and just ways of their realization. It can be assumed that a new value-legal worldview is formed on the basis of liberal ideology, which has a high degree of tolerance and which spreads forms of peaceful relations in the socio-cultural space.

The value sphere of society is not measurable, with the problems singled out for discussion by scientists in this field. It is the problems of the existence and development of the human race, its civilizations and cultures that are measurable with the foundations of the construction of values of morality and law.

Research Methodology

The methodological basis of the research consists of the laws and categories of universal dialectics, together with general scientific and specific legal methods – analysis and synthesis, and methods of legal comparative analysis.

The Essence and Characteristics of Legal Values and Assessments from the Perspective of Legal Theory

The general theory of law, like many social subjects, explains and describes its subject. The nature and forms of law, the activity of the legal system of society, the sources of law, the relationship of law with the state, the relationship of law and law, etc., are within its sphere of interest. The main task here is usually seen in the discovery of the regularities of the origin, development and functioning of the legal system (Nersesyants, 2005, pp. 1-3). The search for these regularities implies that the researcher is, as it were, outside the legal system, moving away from it in thought. In reality, however, a lawyer cannot be outside the legal system. The theoretical knowledge presented by him is an element of legal existence, the theorist's cognitive attitude to that existence. In addition, his involvement is determined by his practical attitude to legal life. The latter, in this case, acts not as an encompassing of the most diverse regularities possible, but as a world of diverse human needs. For this reason, a lawyer should strive to reveal the significance of material and spiritual requirements (including those related to

law) for the life of society, social groups and the individual. The description of the category of significance logically leads to the presentation of values, in particular, the problems of values and jurisprudence.

It should be noted that previously, from Aristotle to the ideology of the Enlightenment, the highest credo of discovering the world was epistemological doctrine, where the main emphasis was on knowledge as a reflection of reality and on knowledge as the acquisition of truth. The goal of science, as a rule, was truth, which is separated from the axiological sphere.

The replacement of being with value in the process of mastering a modern scientific subject expresses the approach of scientific forms to creative methods characteristic of art. This happens because the very value of art is “inhabited” with values.

In terms of the legal sphere, this means the development of the foundations for creative manifestations in law. These foundations relate, first of all, to the legislative basis, the development of local legislation, but, in addition, it also means a new value attitude of the subject to law. This attitude should be characterized by a high degree of humanism, with respect for the rights and freedoms of the individual.

Representatives of the classical theory declare as the goal of their science the self-elimination of one’s own subjectivity from the result of cognition, since this is necessary for the effectiveness of socio-legal practice, in the event that this practice is expressed in the relationship between people’s legal consciousness and legal feelings, that is, ultimately, in the change between legal values, which requires the cognition of values, not extra-valued existence (Schutze, 2011).

For modern science, including the theory of law, the fusion of epistemological and axiological criteria of study is possible and desirable. The world of law is presented as a world of values that the individual recognizes and assimilates within the limits of his capabilities. That is why the cognitive, practical forms of activity of modern man are closely intertwined with the perception of values. Value orientation directs a person to the sea of legal facts, initiates his cognitive activity in law.

In this regard, the problem of the correlation of the value and the result of cognition-truth is worthy of attention. Non-classical knowledge directly points to the coincidence of the real and the unreal in value. Transformed, “erroneous” values, illusions and delusions are objective circumstances of life in law, which require their meaning. Non-classical thinking in legal axiology means the search for the dependence of legal values on the provisions of the value system, as well as the characteristics of the existence of legal “erroneous” values. In the study of the latter, the effectiveness of the value

perception of the surrounding world from the point of view of group interests plays an equally important role.

In order to build a theory of legal axiology, it is necessary to proceed from the current level of development of cognitive activity. Referring to the description of the methodology used in this study, it should be noted that in the second half of the 20th century, the era of “non-classical thinking” ended, which at the beginning of the century had replaced the “classical” thinking that had dominated for about 300 years. At that time, a new epistemological paradigm began to form in science, which was based on two epistemological definitions: non-classical and classical synthesis.

The American researcher of scientific methodology, W. Weaver, distinguished three stages in the history of scientific thought: the “classical” stage, which he characterized as “organizational simplicity”; the “non-classical” stage, based on the theory of relativity and quantum mechanics and emphasizing “non-organizational complexity”; and the “non-classical” (neo-non-classical) stage, formed on the basis of discoveries made in the field of cybernetics, information theory, and systems theory and defined as “organizational complexity” (Weaver, 1948). There are a number of examples of how specific forms of transition to this new paradigm are observed in various spheres of human activity. In the description of this methodology, one cannot fail to take into account the achievements of synergetics, which applies the principles of systems theory to development processes and substantiates a new perception of harmony and chaos. The effectiveness of the application of synergistic patterns in the study of socio-cultural processes, as well as in the development of complex systems of laws at present, is beyond doubt.

Recent studies provide a clear idea of the systemic inclusive thinking that is currently forming at all levels of spiritual activity, overcoming their former dispersion and self-isolation.

In the modern era, a radical movement is taking place in social science. The beginning of the “non-classical period” has brought with it radical changes in the approaches to the spiritual assimilation of society. The analysis of axiological problems is not an end in itself and is intended to contribute to the clarification of the nature, essence and foundations of law. The application of the axiological approach in law inevitably leads to the analysis of the nature of law.

In practice, scientific thought is “driven forward”, first of all, by the perception of the value and significance of law, its mission in society, and human life. In addition, the most complex and difficult task is the philosophical meaning of the value of jurisprudence – the dogmas of law, its philosophical elevation. Such an approach to a theoretical legal problem is called upon to overcome the centuries-old gaps between fundamental legal

knowledge and the philosophy of law. It is mentioned in the limits of I. Kant's "Philosophical Elaborations" and is characteristic of legal thought of the beginning of the 20th century. The approach to the perception of the nature of law is its consideration as the economic and political will of the ruling social group (stratum, class) materially conditioned and put forward in law. In this regard, the materially conditioned mechanism of law is important. Objective factors do not have an automatic and direct impact on law. They are mediated by spiritual factors. It is here that the values and value tendencies of people and social groups manifest themselves, including their standards of justice. From this abstract and characteristic perception of law, it is necessary to make a transition to its concrete, practical spiritual perception, as a value-normative framework of worldview, which has two levels of existence at the same time, abstract-general (perfect, legal behavior: law at the socio-cultural level, law as the internal value of a specific legal subject) (Stepanyan, 2016).

Such a view of law allows us to consider it as a living, dynamic phenomenon. Law should be perceived not as a set of static norms, but as a process. Kievan normativity is interpreted here as a special quality of an individual participating in social practice. The unity of the two forms of the existence of law is ensured by the framework of the principle of law and legality. Practically existing individual legal norms must correspond to the general model in the form stated in the law. In general, the system of value relations at the subjective level is embodied in value perceptions. Value consciousness has the following features: breadth and tolerance for ideological, cultural and other diversity, polysemy, the presence of a core of universal significance of ideas and principles, freedom and the possibility of development, readiness for compromises. The foundations of such a form of worldview, which are perceived as rationally expressed normative foundations of human consciousness and behavior. A person consistently moves the conditions and forms of his life from the sphere of traditional nomination to the sphere of conscious appropriation and construction. Therefore, values, sooner or later, will begin not only to change elementally, but also to be rationally assimilated, clarified and constructed.

At the same time, if we want to overcome the modern crisis phenomena in the sphere of national law, we must, as soon as possible, move on to the rational appropriation, discussion and correction of legal values, focusing on the meaning-making and construction of the value and world-perception foundations of constructive axiology.

By applying the principle of constructive axiology to the sphere of legal activity, a number of fundamental regularities of the axiology of law can be changed. First of all, the individual disclosure and study of legal values lead to their formation and construction. As already mentioned, it is difficult for a

researcher to objectively study the sphere of legal values. Second, the period of construction and definition of legal values is separated from the period of its assimilation and following it. The definition of legal values is a creative, constantly occurring process in society, the effectiveness of which is determined by the degree and speed of assimilation of legal values by citizens. Third, the revaluation of legal values is a long and painful process that threatens to give rise to social contradictions, periods of uncertainty, and the loss of the influence and authority of law in society. This leads to the gradual “seeding” of new values on the basis of a preserved cultural tradition. Fourth, the value sphere consists of different types of mutually complementary and mutually reinforcing moral, legal, religious, and other values. Therefore, the study of individual types of values separately from others does not correspond to the harmonious and natural process of the functioning of the axiosphere of society.

Constructive axiology implies the conscious definition and appropriation of legal values, which are perceived first and foremost as a form of human relations to law, certain features of objective reality, as well as the needs, interests, and emotions of the subject directed toward them. The attractiveness of this interpretation lies in the fact that it takes into account the positions of the subject (individual, social union, etc.), as well as in the fact that the subject of value relations can also act as an independent object of systematic study. Scientists draw a distinction between the subject itself and the features with which it is endowed. This is done because any object of reality, which possesses an infinite number and variety of axiologically relevant features, requires attention.

In the same object, various features coexist. These features sometimes come into conflict, and the value characteristic of the object often depends on its resolution. It is the individual features of the latter that attract the subject by the power of their physical, structural, operational criteria in order to satisfy their own needs and interests. The most important element of the value relationship is assessment. Assessment is a subjective act of human consciousness, a subjective reflection of an existing value. It is assessment that determines the subjectivity of the value characteristics of the object, which is considered separately from socio-cultural, legal activity. In evaluative relations, a given object is correlated with another, more general value, which is taken as a scale, a norm. Thus, the dialectic of the value and evaluative relationship is a rather complex phenomenon. The evaluative relationship arises within the framework of already existing value relations, but as a result of evaluative relations, a new value relationship may also emerge.

Assessments have a highly diverse nature. Those assessments that are characteristic of morality, politics, law, and art are considered purely

approbative. In the literature on the issue of values, axiological assessments are distinguished as general evaluative and specific evaluative. The former contain an assessment of the object in general, while the latter relate to individual aspects, characteristics, and features of the object, which are obtained at a particular stage.

Universal human values find their embodiment in universal forms of morality and law. According to N.S. Nersesyants (2013), such fundamental values are justice, freedom, and equality, which, being expressed in moral and legal forms, acquire a moral character (pp. 78-79). In the literature, the opinion has been expressed many times that the axiological sphere of law should be characterized by the regular use of the terms moral-legal consciousness and moral-legal values.

At the same time, despite the common value bases, law and morality do not merge but have an independent socio-normative life and their own value hierarchy, which sometimes acts as a justification for law, however, together they are in a complex relationship of mutual support (Maltsev, 2007).

It is necessary to welcome the attempt to “introduce” a value approach into the definition of law, but one cannot agree with the mechanical introduction of moral values into such a definition, which ultimately leads to value reductionism, a reduction in the role of values in normative regulation, and also calls into question the value interrelations between law and morality. Legal values are spiritual phenomena that are embodied, to one degree or another, in legal relations and define the purely human nature of law.

Conclusion

One of the important components of law is value, which is also one of the essential and mandatory features of positive legal systems.

Law acts as a universal form that fixes other social means, which is expressed in the social-regulating, transactional value of law. At the same time, the pure values of law – human rights and freedoms, the rule of law, legal order, and legality – acquire a necessary and sufficient embodiment.

From the perspective of necessity, the perception of law as a reflection of conscious will further enhances the place and role of law in the sphere of legal regulation. Moreover, will is always associated with freedom of will, that is, a choice among various motives that does not contradict the vital needs of a person.

For the will of law, specific legal norms and values can act as such content. Natural law gives legal phenomena a spiritual, humanitarian content. The spiritual dimensions of law constitute moral and legal values. Natural law perceives the highest, universal values, which are expressed in the way a person respects his own rights and in striving for freedoms.

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