



VALUE CHARACTERISTIC FEATURES OF LAW AS A MEANS OF REGULATING SOCIAL RELATIONS

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SUMMARY

The article deals with the general-theoretical analysis of law values. It is stated that axiology of law is expressed in the form of cultural values, instrumental values and teleological values. The features of law values are regarded as its socio-legal characteristics. The author gives own interpretation of the concept of «social value of law». Instrumental values of law, its importance as a tool for satisfaction of the needs of various subjects are examined. The influence of law features on its value is elucidated, axiological features of law functioning are substantiated. A great attention is paid to subjective and objective values of law. Characteristic features of law values for the society, the state and the individual are defined. The value aspect of the legal regulation of social relations is considered.

Key words: law, axiology, value of law, social value of law, legal regulation.

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В статье осуществляется общетеоретический анализ ценности права. Констатируется, что аксиология права выражается в форме культурной ценности, инструментальной ценности и телеологической ценности. Рассматриваются признаки ценности права как его социально-юридической характеристики. Предлагается собственная трактовка понятия «социальная ценность права». Исследуется инструментальная ценность права, его значение как инструмента удовлетворения потребностей различных субъектов. Выясняется влияние свойств права на его ценность, обосновываются аксиологические особенности функционирования права. Уделяется внимание субъективной и объективной ценности права. Определяются характерные признаки ценности права для общества, государства и отдельного человека. Рассматривается ценностный аспект правового регулирования общественных отношений.

Ключевые слова: право, аксиология, ценность права, социальная ценность права, правовое регулирование.

Problem setting. At present stage of the development of human civilization it is not important so much to discover and prove the value of law for the progressive development of the society in general as to provide this value in all its manifestations. In the process of ensuring the value of law both circumstances that contribute to the perception of law as value, and criteria of law value are discovered, and that is especially important, the law value, necessity and respect to it by society are increasing. Urgent necessity for the research of the social value of law is explained with the weakness of the scientific-research base of forming law, political tendentiousness of legislation, uncritical perception of western legal institutions without proper consideration of their own historical experience.

The relevance of the theme of the study. Restoring the prestige of law and resolving issues of ensuring its social values are possible under conditions of the set of measures and the application of means of socio-economic, political, ideological and cultural nature. All of this leads to the necessity of the development of the problem of the social value of law. This will facilitate increasing the effectiveness of the legal regulation of social relations, social necessity of law, improving the legal system of the state as a whole.

The state of the problem solving. Many authors within the theory and philosophy of law considered law from the axiological point of view. They are: H. Areni, F. Hegel, H. Grotius, R. von Ihering, I. Kant, B. Kistiakivsky, J. Locke, A. Merkel, P. Novgorodtsev, J. Fichte, H. Shershenevych, etc. The conception of this doctrine was elaborated in the Soviet period thanks to the works of S.

Alieksieyev, M. Baitin, M. Vitruk, N. Matuzova, P. Rabinovych, F. Fatkullin, O. Cherdantsev, etc. Study of these scientists gave impetus to the further researches of the issue.

Paper main body. Interpretation of the social value of law is ambiguous in the legal literature. Some authors consider that law has no value, and only those relationships protected by law have some significance for the society. In their opinion, law is valuable as a tool, a means of solving tasks standing before the society [1, p. 32]. Other authors point out that the value of law is revealed in its ability to be the organizer of public relations, in the functioning of law as a means of satisfaction of the needs [2, p. 9]. Some scientists consider the value of law as its social nature and they assert that the possibilities of law as a social value are incorporated in its features, which are: standards, formal definiteness, dynamism,

etc. [3]. Others believe that the value of law exists as the ability to serve the interests of the participants of public relations [4, p. 12]. According to V. Baranov, the value of law is a means and the aim of satisfaction of natural, scientifically grounded, socially fair, progressive needs of citizens and their communities [5, p. 266-282]. Finally, the value of law is derived from the social value of any normative prescription and is revealed in the ability of law to objectively reflect the processes of social development [6, p. 79].

Another aspect of the axiological research of law was pointed out by O. Tsybulevska. She states that the theory of law distinguishes values of law and values in law. The first characterize just law (order, freedom, responsibility, equality, justice), the second – values that go beyond the law, reflect the interests and needs of people and they are implemented by law [7, p. 21].

In this article we will consider the fundamental value of law, which is formalized in the individual and the public ones.

Despite the variety of definitions of social value of law, a detailed analysis of the following opinions certifies a fact that they have two characteristic features. The first is that the value of law acts as its attribute, the second determines «necessity approach» that allows you to clarify the needs of the subject and characteristics of law that promote the satisfaction of these

needs. According to this approach, law is regarded as the indirect, service value in relation to the needs [2, p. 12-13].

Therefore, the authors paid their attention to the development and study of instrumental value of law, i.e. considering it as a tool and a means of satisfaction of needs of different subjects.

It is hard to disagree with this thought. Law has its instrumental value and any definition in textbooks of the theory of state and law proves that law acts as a means of regulation of relations in the society (law is a system of obligatory, formally defined rules, which are the state regulator of social relations). And the emergence of the law, if you recall, was caused by needs, which, in turn, appeared in accordance with the new conditions of life of the society. So it is right and reasonable to consider the «service value», because it is associated with its entity and direct purpose.

The fact of recognition of cultural value of law does not reduce its basic importance. The significance of law in a society comes to the instrumental value, i.e. the value of the «tool», «means», solution of tasks concerning different sides of the life in the society [8, p. 344]. In this case we are talking about instrumental value of law, which got the largest argumentation in the literature. However, scientists-lawyers examine it differently. Some associate it with the possible social functions of law and distinguish, for example, instrumental-distributive, instrumental-marked, instrumental-measuring, instrumental-protective, instrumental-cognitive [2, p. 13-19]. The other, calling this value determinant, pay special attention to the content and essential features of «tool» [9, p. 62], still others consider it with respect to the value of law for different subjects (personality, state society) [1, p. 34].

We propose to research «service» value of law according to the algorithm based on the analysis of scientific sources and positions of the scholars on this subject. First, you should determine the value of law as a tool with a focus on the semantic aspect; then you should consider the impact of law features on its value, and, finally, axiologically ground features of the functioning of law.

Semantic analysis is not possible without the preliminary characteristics of its essence. Just the essence allows evaluating the phenomenon in general

and determining its relevance in the social life. The peculiarity of the essence of law is reflected in the specific features of the phenomena, and is revealed in the content of the principles of its interaction with the surrounding reality. The essence, features and principles characterize the value of law in general. They determine the content of law, which consists of regulations establishing subjective rights and legal duties of subjects in typical situations. The content of law reflects the features of this phenomenon and in many ways defines its individual assessment by various subjects.

The fact of reaching agreement in the nature of freedom expressed in law will give reasons to talk about the fact that norms of law take into consideration different, and sometimes even conflicting interests of social groups. Concordance of interests allows drawing a line between law and lawlessness, unilateral self-will, allows regulating socially meaningful relationships based on equality and justice.

Principles of law also characterize it as a value. Generally analyzing some of them (justice, humanism, equality), it becomes clear that they are categories and requirements of morality. In common, they are valuable criteria of law.

Law is fair, humane; it depends on how the requirements of morality consolidated in it. We cannot oppose these categories with law and consider out of touch with each other. In the life of the mankind a deeply rooted belief in goodness and morality, truth, law and justice is revealed at all times. These ideas so firmly and internally are linked, that doubt about one of them leads to doubt about the other entire and they may not be fully and properly understood without each other. That's why the separation of law from the goodness and morality always leads to false, one-sided understanding of legal everyday relations. These ideas complementing each other have the same source [10, p. 7].

It is clearly observed the relationship between law and justice. The whole history of ethical and legal opinion indicates that justice has always been regarded as the evaluation of the existing legal regulations [11, p. 132].

Humanism as a principle of law cannot be reduced to humanity, magnanimity, kind-heartedness. In the most general form humanism can be characterized as a set of views that express the dignity and

value of a person, his/her right to free development, affirms the humanity in the relationships between people, as well as practical ensuring real, worthy of a person logistical, economic, political and cultural conditions of his/her life and the corresponding objective social relations.

Therefore humanism is a combination of objective and subjective attitudes to each person as the higher independent value. The expression and realization of the principle of humanism in law, of course, is its essential feature and one of the reasons of value.

Considered essence of law and its principles affirm an objective nature of law value. At the same time we must say that the idea of justice and humanism is historically changeable and it assumes both objection and continuity in the development of their content. Therefore, in order to enhance the value of law the subjects of lawmaking must create a system of normative prescriptions which dynamically changes, corresponds to people's notions about moral values.

Subjective rights and legal obligations embodied in the norms of law are its content; they can serve for the substantiation of the subjective nature of law value.

Law features, described in the theory, characterize it as a means of solving problems standing before different subjects. A measure of the effectiveness of this means is connected and depends on its features, among which we call normativity, general obligatoriness, formal definiteness, the provision of an opportunity for state coercion. Each of these features is at the basis of the «effective feature of law» [12, p. 124].

Normativity means that a rule of behavior, fixed in the specific norm, extends its action on an unlimited number of similar situations and non-personalized circle of individuals. This allows creating common types of behavior and avoiding individual regulation of duplicate relationships, because it requires different expenses (financial, organizational, etc). Therefore, all the energy of legal form is aimed at establishing uniform, strictly regulated order.

Normativity is directly connected with general obligatoriness. This feature of law is associated with its essence, expressed in the will. This allows making law as a common scale of



behavior, ensuring compliance with its requirements.

A great importance for the perception of law as a value has its «tangible» expression, formal definiteness, which means that the content of law, expressed in writing official sources, is accurate; it doesn't contain double, arbitrary interpretation. It is impossible to use law, which is contrary to the needs of the society and legitimate interests of other subjects.

We have noticed about the use of law as an effective means of solving different tasks. Its effectiveness increases in connection with the provision of law enforcement on the part of the state and other subjects that create legal prescriptions [13, p. 21].

All features of law constitute a coherent whole, one feature is necessary for another. They confirm together the objectivity of the nature of law value.

Let's characterize the value of law in the process of its functioning, implementation of its direct purpose as a regulator of public relations. First of all, law establishes a clear boundary between the activity of the state and behavior of people, thus it ensures the creation of the most rational and reasonable interactions between the different levels of the social system [14, p. 62]. None of other social norm does as law.

The functioning of law is characterized by thrift and effectiveness of regulatory action on the object. This effect is achieved thanks to the normativity and the ability of law to respond adequately to changeable social relations, i.e. the dynamics of law. The dynamics of law means its ability to undergo changes in the content and form in accordance with the principles of the social development and to be a timely means of regulation of relations.

The security function mediates consolidation and protection of phenomena, which correspond to the existing system of values in the society, as well as the protection of these phenomena from possible infringements and renewal of damaged situation.

These are the main statements regarding the instrumental value of law; in fact, attitude to it in the scientific environment is unique. Despite everything, it is advisable to emphasize so-called own value of law, to which there is an ambiguous attitude in the theory. For example, O. Cherdantsev

does not recognize own value of law [1, p. 33]. Supporters of own value of law do not come to a unified position. For example, Bulgarian scientist-lawyer N. Nenovsky determines own value of law as possibility of law to ensure the stability, order and organization in the society [3, p. 197]. We agree with this position, but we should remark that the ability to carry the order in social relations is peculiar to other social norms; P. Rabinovych suggests this ability, which is inherent to law, to consider its own value [2, p. 9]. In the works of S. Alieksieyev there is understanding of own value of law as an expression and embodiment of social freedom and activity of people within and on the basis of organized, ordered relations and in accordance with morality, justice. Law is a value which is not characteristic of any other socio-political phenomenon, the value of orderly social freedom and justice [15, p. 140].

Summarizing the above, we should note that in our opinion the axiology of law is expressed in the form of cultural value, instrumental value and teleological value.

The national legal science has repeatedly put the question to determine the value of law for different subjects, and its solution was through an analysis of requirement and natural necessity of law for the society, the state and the individual. In fact, law itself could hardly cause association with the value without interaction with the subjects using it, without transforming influence on the relationships in which they enter. Therefore, scientists-lawyers linked together the characteristics of a value of law with the activity of subjects of law.

Conclusions. Summing up, we note that law reflects the cultural development of the society and it is the particular form of culture; law is a means of ensuring harmony in the society, stability and security in the state. However, it is largely theoretical conclusions; they do not often have any confirmation in practice. Therefore there is a need to ensure those features of law, which give reasons to judge it as a value in the process of regulating social relations.

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