THE LEGAL VALUE OF MAN IN THE CONTEXT OF THE NATURAL-LEGAL CONCEPT OF LEGAL UNDERSTANDING

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ABSTRACT

The article examines the content of the legal value of man in the context of the natural-legal concept of legal understanding. It is justified that knowledge of the legal value of a person within the natural and legal type of legal understanding is important for defining and consolidating the true criteria of normativity in law, implementing an effective process of its implementation in the system of public relations, building the legal state, protection of human and civil rights and freedoms. It is proved that in the theological theory of natural law, the role of man is characterized by the fact that he acts as a passive executor of another's will, which leads to the possibility of any manipulation, directing human behaviour in one direction or another, neglecting his own interests. It turned out that the essence of the objectivist kind of theory of natural law, manifested in the fact that the image of law is associated with legal consciousness and is reflected in the active, creative human activity, based on the principles of freedom inherent in man from birth, depriving him of obedience to the law as an ideal normative-value model of behaviour, which may not correspond to the values of a natural character. It is established that within the modern theory of natural law, natural and legal views are combined with historical and sociological study of legal ideals, which leads to the expansion of the list of natural rights and the inclusion of not only inalienable human rights, but also a number of social, economic, political and of another nature, which contributes to the strengthening of human activity in order to implement and protect its needs and interests.

Keywords: Man, Legal Value, Legal Understanding, Natural Law Concept, Natural Human Rights

INTRODUCTION

Considering new views on the definition of the essence of human legal existence, it is necessary to turn to the definition of the concept of "human rights", which is inherent in modern legal science. As noted by M.I. Koziubra, the "concept of human rights" in the literature (foreign and domestic) is defined differently: as opportunities necessary for the existence and development of man in certain historical conditions; as human demands addressed to the state and society; as certain benefits, needs and interests of man, etc. Summarizing the existing approaches to understanding human rights, we can offer the following definition: human rights are recognized by the world community goods and living conditions that a person can seek from the state and society in which he lives, and which are real in terms of human progress (Koziubra, 2015).

Scientists emphasize that the system of natural human rights includes the right to human dignity, because, being a creature of natural origin, man deserves to live in decent natural and

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social conditions. Man is worthy of self-control, as well as worthy of being treated as a subject of moral choice; "philosophy of human dignity" includes such a worldview that requires self-preservation and development of any person, people and humanity as a whole, the law with signs of anthropocentrism includes the dignity of every human person who would enjoy the respect and protection of the state (Myronova, 2008-2009; Muchnik, 2009; Pukhovska, 2015).

These issues become especially relevant in the context of increasing the role of civil society and strengthening its influence on law-making and state-building processes. According to N.M. Onishchenko and N.M. Parkhomenko, the approach to man should be considered not only as to an individual with relevant consumer interests, but as to a unique individual, the potential of which can be realized only in the relevant cultural and legal environment (Onishchenko & Parkhomenko, 2011).

RESULTS AND DISCUSSION

We believe that the basic positions on the knowledge of the legal value of a person within the existing types of legal understanding takes the theory of natural law, which originates from the depths of ancient philosophical and legal thought. It is appropriate in this context to recall the essence of the worldview revolution, which was carried out by Socrates. Realizing that the individual must oppose to natural chaos his moral law, Socrates for the first time among philosophers turned to the problems of values, the conscious choice of the ideal norm for determining the options of human behaviour. This is where the disclosure of the essence of the behaviour of the individual begins, which can demonstrate the implementation of the requirements of goodness and justice, honesty and morality, or, unfortunately, be a manifestation of destructive phenomena in society.

Knowledge of the legal value of a person within the natural and legal type of legal understanding is important for defining and consolidating the true criteria of normativity in law, implementing an effective process of its implementation in the system of public relations, building the legal state, protection of human and civil rights and freedoms.

The basic concept for revealing the essence of this issue is the concept of "value", *i.e.*, everything that allows people to satisfy their desires and needs, makes them make efforts to achieve, maintain and increase them. It is worth agreeing with the thesis that the absolute values of natural law do not depend on changes in socio-historical conditions, are not a product of the will of the state, are not decreed by its regulations, are above its immediate interests and are not subject to devaluation (Bachynin, 2003). The highest social value is a person. This means the right to life, freedom, security, dignity of the individual. In this context, the opinion of some scientists will be fair that the human-centered dimension of law, if viewed from the standpoint of reflection and consolidation in the system of appropriate forms of law, is to ensure and guarantee the real process of natural human rights (Shevchenko, Kudin & Kalhanova, 2020).

The idea of natural law is important for revealing the essence of the legal value of man within the natural-legal type of legal understanding; given the fact that it has passed a long historical path of its development and is considered from several points of view, namely: theological, objectivist and modern interpretation of natural law, it is advisable to dwell on the role of man in the context of these approaches. Summarizing the views of various scientists O.L. Lvova noted that the idea of natural law has long developed in the form of absolute natural law, based on the belief in the existence of immutable and universal laws of world life and human relations. It was believed that every living being has natural properties that are inevitably manifested in its behaviour, and natural law – an unchanging and universal ethical, or legal, norm of human behaviour (Lvova, 2008).

The essence of the theological theory of natural law was that the initial condition for understanding the law is the awareness of God's will to establish the order to which people must obey in the process of their lives. As noted by P.A. Ol, it is the "natural law" that is seen as the outward manifestation of the eternal, divine law, which is opposed to the imperfect human law (Ol, 2005). The role of man within this approach to the understanding of law is reduced to a

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passive executor of the will of God. However, the question of who and how will represent "God's order" remains open. That is, under such conditions, the basis is created for determining the will of God in the advantageous form to the representatives of the authorities, filling it with content that may be far from the interests of man himself. Thus, the historical past of human development is a clear indication that during the development of feudal relations was offered an understanding of law as a privilege granted by the monarch.

Within the framework of the theological theory of natural law, the concept of ideational law was developed (P.A. Sorokin), which provoked a contradictory reaction from scholars. Its author noted that in its system of values, all social interests must be subject to religious norms. Judges in the ideational system are also clergy, and many legal procedures take the form of sacred rituals. In states of ideational orientation, only those rulers whose lineage reaches the gods, as well as those who have a direct divine sanction to rule, have legitimacy. Therefore, in such states, the monarchy is, as a rule, at the same time a theocracy. These were the states of archaic Greece and Rome, India and Tibet, the Inca Empire and the medieval European states (Sorokin, 1992).

The specificity of the objectivist version of the theory of natural law, which originates from Hegel's philosophy of "absolute idea", is that the central place in the system of philosophical views of Hegel was the concept of spirit, so it is with legal consciousness he associated that image of law, which is reflected in the behaviour of members of society in different socio-historical conditions. He presented the idea of law as freedom, which is a manifestation of natural law. It should be noted that defining the idea of law through the concept of "freedom" G. Hegel emphasized that the idea of law passes in its development in three stages, namely: abstract law as the right of abstract free personality; morality as an appropriate field, which includes the assessment of human behaviour and is subjective; morality as an objectified idea of law, which is reflected in the family, civil society and the state. Thus, natural and positive law, according to Hegel, are almost identical concepts, except that the image of law, which is contained in the minds of individuals, "corrects", changes the positive law in accordance with changing social conditions.

We believe that the change in the image of positive law acquires its real manifestation and consolidation in the rules of law only in the presence of freedom, which is inherent in man from birth. Thus, within the objectivist version of the theory of natural law, attention is focused on the considerable activity of man, which does not stand aside from the processes that take place in public life. Such a person clearly responds to everything that happens in society, assessing the relevant phenomena through the prism of his own consciousness, the level of which is determined by the degree of freedom of the individual. W. Humboldt noted that "…nothing contributes to reaching maturity, as freedom itself. This assertion will be denied, of course, by those who have often used the lack of maturity as suggestions in order to continue oppression. But it seems to me that this statement, of course, follows from the very nature of man. The lack of maturity necessary for freedom can only result from a lack of intellectual and moral strength…, it requires work, and work – freedom that awakens self-activity" (Humboldt, 1985).

Continuing the idea of the role of natural law in the context of the manifestation of creative human activity, we note that it is within this concept that the image of man is deprived of obedience to the law as an ideal value-normative model of behaviour. It should be noted that such a person will unquestionably direct his activities to the protection of rights and freedoms of non-state origin. That is why, considering human rights as an integral part of natural law, given that they provide the value to the subject, it is quite natural to consider them as an internal natural impulse that determines human behaviour.

Fundamental human rights exist to law in its formal sense, and therefore, in our opinion, it is appropriate to talk about the fact that human rights in their natural manifestation is the basis for the formation of legal activity of the subject as a natural need, through which their protection is possible. It follows that legal activity cannot be defined only as a consequence of a high level of social and legal development of a person, but should be considered as a feature of the subject,

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which exists before the inclusion of the subject in the plane of legal relations. Legal activity in a static form is constantly present as a behavioural element that "wakes up" when the subject is aware of his role in social processes. It never disappears and should be considered from the standpoint of a dynamic approach as the realization of the natural needs and interests of man, a man who is free, creative and aimed at implementing the values of a natural character.

It is worth noting that the modern understanding of the theory of natural law has specific features that determine the place and role of man in the process of creation and implementation of law. This is due to the fact that in comparison with the era of anti-feudal revolutions there have been significant changes in views on man as a bearer of natural rights. New approaches to defining and understanding the legal existence of man are associated with the adoption after World War II of a significant number of human rights regulations. It was during this period that more than 50 declarations and conventions on human rights were developed and adopted under the auspices of the United Nations. An important place among these documents is occupied by the Universal Declaration of Human Rights. Having a recommendatory character, its content has been detailed through a number of international agreements, as well as the development of regional and national legislation.

It should be noted that human rights, being recognized by the world community, are universal. They are indivisible and interdependent. An important role in relation to human rights belongs to the international community, which must treat them globally, on a fair and equal basis, taking into account the importance of national and regional specifics and various historical, cultural and religious features of the development of states. Therefore, we believe that the normative consolidation of human rights has opened a wide space for creative and active activity of the individual and defined the limits of state intervention in society. The law-abiding subject is replaced by a person who has a significant potential of legal activity, focus on the volitional behaviour of the subject, which, being within the axiological sphere of law, is able to choose between legal values and their own ideas of expediency or inexpediency, correct or incorrect behaviour. Under such conditions, there is a violation of the foundations of the eternal legitimacy of regulations. Changing the political situation from democratic to anti-democratic, the specifics of social relations, the needs of a practical nature inevitably lead to the fact that regulations lose their legitimacy and put the subject in a situation of need to resolve the dispute between the dogma of law and real needs, between natural values and values or anti-values declared by law.

It is worth noting that the realization of the value of human dignity does not happen automatically, but requires a high level of value content of the individual, a meaningful attitude to human existence. The peculiarity of the realization of the natural human right to dignity is that without it, it is impossible to realize all other human rights and freedoms. That is why, in certain historical conditions, man and civil society are faced with issues related to the need to understand the existence and choice between two types of values, namely: values that express practical, temporal and subjective guidelines for human behaviour; values that do not have time limits, or follow from their content.

Thus, the hierarchy of values is determined by the change of value determinants, and this inevitably leads to the fact that in the first positions is one or the other value determinant, forming a value-based basis of human behaviour in the legal field. This is a clear indication that the development of human society is uneven. It is worth recalling in this regard at least the fact that for a long historical period of time the power of the state was determined by its territorial scale (Roman Empire, Russian Empire, former USSR) and anti-democratic law served the needs of such a state. However, it is wrong to perceive the greatness and power of the state, based only on the scale of its territory and regulatory system of law. And humanity realized this, turning again after the tragic events of the mid-twentieth century to the problem of natural law.

It should be noted that in the context of globalization, human capabilities to influence their future existence are significantly expanded. We believe that the use of the ideas of natural law creates a solid basis for the active involvement of man in integration processes. The solution of today's problems is inconceivable without a valuable understanding of the ways of

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coexistence and development of mankind, the need for mutual convergence of legal systems while preserving their identity and uniqueness. Based on the conceptual ideas of the theory of natural law, humanity will inevitably approach the realization of the need to form a universal civilization mentality, which includes the desire for peace and a reasonable solution to existing problems. Otherwise, without this approach, it will be impossible to reach a consensus on many global issues.

Taking into account the essence of modern theory of natural law, we note that the list of natural rights includes not only inalienable human rights, but also a number of socio-economic rights, the right of nations to self-determination, the right of people to revolt against anti-democratic government. Thus, based on the peculiarities of modern theory of natural law, it should be noted that it is not considered as a set of once and for all established regulations. The focus is on the development of legal awareness, moral and spiritual values of a particular society and people. That is, natural law views in modern jurisprudence are combined with the historical and sociological study of legal ideals. It should be noted that based on the essence of the theory of natural law with variable content, the role of man is to direct their activities to the process of realization of values of a natural nature, arising from the needs of a particular historical period of society. To achieve this goal, a person must prove himself as a "person in law".

It is believed that this concept was first introduced by G. Radbruch. In his opinion, a person in law has two images, namely: a legal person and a judicial person. A legal person is a human individual who, given his biological nature, has such legal qualities as natural, inalienable, fundamental rights. As for the judicial person - a human individual who in the process of socialization is able to perceive, implement and transform law as a special social, *i.e.*, as a state-volitional, legal, "positive" phenomenon, which is an element of culture formed in a particular society (Radbruch, 2004).

Thus, the legal value of man is reflected at the level of natural law type of legal understanding. Within the framework of positive law, it must find its logical continuation and development. Positive law gives normative certainty, stability to the value characteristics of man, which at the initial stage are contained in natural law. This fully corresponds to the essence of the naturalistic concept of law as one of the types of the concept of natural law, the content of which is the understanding that natural law is the laws of social nature. The role of man is to give them the form of legislation. In this case, positive law should be considered as a legislative form of natural law.

However, the value of man within the naturalistic concept of law is not limited to the identification and normative consolidation of the laws of social nature. Thus, "the dramatic events of late 2013 – early 2014 in Ukraine, associated with the "Revolution of Dignity", mass violations of human rights and freedoms by the then authorities, encroachment on life and health, other rights of Ukrainian citizens, as well as the temporary occupation of Russian troops of the Autonomous Republic of Crimea, the undisguised aggression of the Russian Federation against Ukraine in its eastern territories, the Anti-Terrorist Operation and the Joint Forces Operation proved that the formal consolidation of human rights and freedoms, their declarative proclamation do not have sufficient grounds for observance and realization of human rights and freedoms" (Shevchenko et al., 2019). Thus, the laws of social nature alone cannot be implemented, but require the need to involve in this process the will and consciousness of man, which, in turn, are part of a more complex system – the mechanism of protection of human and civil rights and freedoms.

However, it should be noted that the process of functioning of such a mechanism does not happen automatically, but requires the participation of a number of actors, namely: political parties, public organizations, political leaders, civil society in general. A special role in the functioning of this mechanism should belong to civil society as a set of free and equal citizens and their voluntary associations, which, guided by the requirements of natural law, should direct their activities to take an active part in law-making, implementation of legal norms and control over observance of human and civil rights and freedoms.

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Note that the question of the functioning of the mechanism of protection of human and civil rights and freedoms acquires special significance in the conditions of human development in the XXI century. And here it is necessary to agree with the opinion of O.M. Kostenko, that in modern conditions there is a massive nature of abuses disguised as human rights, but in fact is an abuse of human rights enshrined in law – a new challenge to modern civilization, which can only be met by further development and improvement of human rights (Kostenko, 2009).

In order to counter arbitrariness and illusions that manifest themselves in the form of human rights abuses, it is necessary to supplement the concept of "natural human rights" with the concept of "natural human responsibilities". It follows that the value of man must be expressed not only in the realization of human rights, but also in the performance of his duties arising from the natural laws of social life. This should be the criterion by which a line can be drawn between human rights and human rights abuses.

Using a natural-legal approach to legal understanding, there is a constant process of comparing one's own behaviour with ideal patterns that are universal in nature. In the process of communicating with other people, a normative value system is formed, which is constantly correlated with ideas about human-centered law. The idea of the desired right is inextricably linked with the issues of normative consolidation and implementation of natural human rights as ideal patterns of behaviour, and they should be considered in two senses: in the objective, when they are recognized by others, and subjective – human awareness of their role and importance in public life. The peculiarity of natural rights is that they are ethical in nature, emphasize the self-worth of the individual and provide a high level of spiritual development of society, but do not coincide with the moral and ethical norms, which are due to historical and other factors.

The legal value of man derives from the very content of the natural-legal type of legal understanding and is inextricably linked with issues of morality, on the basis of which there is an awareness of the need to link human rights with its responsibilities. This is especially true for the obligation to recognize the rights of others. Given the fact that man is a creature that is unthinkable outside of society and lives not only for himself but also for others, so he is able to establish appropriate order in the relationship.

Like natural law, moral values originate from absolute and eternal concepts such as justice, dignity, wisdom, goodness and, as an integral formation of moral consciousness, include the norms of morality, ideas, principles and ideals found in relationship with human needs and act as guidelines for its behaviour. Moral values are the basis for the implementation of activities that have the characteristics of a self-regulatory nature and involves the ability of a person to consciously resolve relevant issues, to freely choose solutions based on socio-moral values. Obviously, moral values and natural law are closely intertwined.

Since law as a phenomenon of public life has a holistic nature, and one or another approach to its understanding is only a perspective on it, carried out from the appropriate point of view, we can say the following: law will make sense only if the legal value of man, which is revealed through the natural-legal type of legal understanding, will be recognized as a positive law as an indisputable fact. This requires that the rules of positive law include the spirit of natural law.

It should be noted that such inalienable rights as the right to life, liberty, equality, the right to fair treatment of a person must find their further development and specification not only at the level of normative consolidation, but also at the level of real process of implementation them in life. The classical doctrine of natural law and the modern understanding of natural law with its changing dynamic content act as the main reference point for the development of various forms of law. Therefore, it is quite natural to focus on the multifaceted manifestations of natural law, to explore how natural law is reflected in the system of legal acts, how exactly is implemented the constitutional provision on the recognition of man as the highest social value.

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CONCLUSION

Within the natural-legal type of legal understanding, the legal value of man has its own features, namely:

- In the theological theory of natural law, the role of man is characterized by the fact that he acts as a passive executor of another's will, which leads to the possibility of any manipulation, directing human behaviour in one direction or another, neglecting his own interests;
- The essence of the objectivist kind of theory of natural law, manifested in the fact that the image of law is associated with legal consciousness and is reflected in the active, creative human activity, based on the principles of freedom inherent in man from birth, depriving him of obedience to the law as an ideal normative-value model of behaviour, which may not correspond to the values of a natural character;
- Within the modern theory of natural law, natural and legal views are combined with historical and sociological study of legal ideals, which leads to the expansion of the list of natural rights and the inclusion of not only inalienable human rights, but also a number of social, economic, political and of another nature, which contributes to the strengthening of human activity in order to implement and protect its needs and interests.

The natural-legal type of legal understanding determines the definition of human value not only through the expression of the realization of human rights, but also the fulfillment of the responsibilities assigned to it, which derive from the natural laws of social life.

The ethical nature of human rights and responsibilities emphasizes the self-worth of the individual and provides a high level of spiritual development of society. Under such conditions, a person acts as a subject who is capable of active creative activity, feeling the influence of the mentality of the society.

Given the fact that the quality of social and legal life is determined not only by the declaration of rights and freedoms, but also by the real process of their implementation in the system of social relations, the legal value of man thus acquires a broader meaning, including the ability to influence others in order to achieve appropriate results. The specific features that a person should have in the legal life of society are:

- To be the bearer of universal values;
- To act as a subject that has the opportunity to choose appropriate behaviours, analyzing the existing legal reality;
- To be an active participant in legal relations.

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Received: 07-Dec-2021, Manuscript No. JLERI-21-9104; **Editor assigned:** 09-Dec-2021; PreQC No. JLERI-21-9104(PQ); **Reviewed:** 23-Dec-2021, QC No. JLERI-21-9104; **Revised:** 28-Feb-2022, Manuscript No. JLERI-21-9104(R); **Published:** 07-Jan-2022

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