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Law as a Method for Defining Social Life in the Successful Society

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Abstract

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In the successful society, a citizen of the social law-bound state acts as an independent subject. The form and degree of freedom is a right that should expand the limiting boundaries for an individual in different spheres of life: in manufacturing, in economic activity, etc. Man, his rights and freedoms are the supreme value, and fundamental human rights and freedoms shall be enjoyed by everyone from birth. These are the two components of the constitutional legal understanding (value-oriented law and natural law). Human rights are a reflection of the fact that the comprehensive perfection of humankind is impossible without exercising human rights.

The article defines the role of international institutions and organizations in cooperation with regard to the issue of rights and of international law, presented a set of legislative acts and documents of different levels that make up the system of determining the social life of a successful society.

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1. Introduction

Dialectic of lawful-action related incentives and restraints in social life in the process of implementing the rule of law in a successful society is one of the main issues of law-making. For a more precise definition used to describe the idea of legal foundation for statehood, it is necessary to clarify such issues as legal control, mechanisms and methods for improvement.

Legal control in a broad sense is a regulatory activity in the system of law in force so as to adjust it in proportion to the objective laws existing in a social environment, with a focus on improving the functional systems of quality. Attributes to the legal control of social life are a legal system of incentives and restraints. (Kerimov, 1995) Functions assigned to incentives and restraints in different



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judicial systems coincide in substance: generalization and continuation of specific governance mechanisms. Legal incentives and legal restraints play different roles, and have different patterns and mechanisms for implementing their capacities in the establishment of social relations.

2. Materials and Methods

The work of Mal'ko (1994) defines the concept of legal incentives and legal restraints. The concept of legal incentives can be defined as an incentive motivation to law-complying deeds that creates the most favoured environment for satisfying personal interests. Legal restraint is a legal suppression of unlawful acts that creates the conditions for satisfying the interests of a counter party and public interests for the sake of common good with regard to the safeguarding and protection. These are the defined boundaries within which a person must act in a successful society in the process of law-making. As to legal incentives, they are associated with favourable conditions for personal interests, resulting in the provision of values, informing about extending opportunities, freedom, because the legal incentives manifest in the form of person's legal rights and legally protected interests, benefits, rewards and others. They are aimed at regulating public relations and perform the function of developing social relations. These attributes express their social value and need. They are aimed, on the one hand, to constrain, and, on the other hand, meet the interests of the opposing party and public interests in the safeguarding and protection, with reporting on reduced opportunities, freedom and, accordingly, the rights of individuals that causes a person to behave in a certain "limited" way; express negative legal motivation; and intend to protect public relations.

These legal instruments perform either a stimulating or limiting function depending on interests served by the law-based state, "own" and "foreign". Legal restraints and legal incentives in the legal regulating practice embrace all the initial lawful means of the exertion of legal pressure and control. They are opposing and unifying instruments, for example, a bonus as the financial incentive encourages a certain type of relationships and simultaneously blocks some others. (Mal'ko, 1994) The restraint consolidates both restraining and stimulating aspects. The incentive restrains and the restraint incentivizes. The legal incentives and legal restraints are combined in their impacts on people's interests. "The motivational effect of law implies not only the initiation of positive impulses, but also the elimination of or prevention from emerging different motives in favour of a particular behaviour to eliminate "temptations", etc. (negative legal motivation). Different kinds of motivation is a combination of each other in law ...". The incentivizing legal regime creates favourable conditions to meet interests of a specific group. The restraining legal regime is aimed at limiting them.

The legal regulation is composed of legal regimes. Until recently, the legal restraints have been very tight with regard to entities and individuals in the sphere of economy, based on the principle "that which is permitted is allowed". At the same time, a dominant place is given to the norms of administrative and criminal law (restraints, duties, legal prohibitions) (Golenkova et al., 1995). In practice, a degree of interest was limited by too narrow judicial boundaries, in such a situation, the stimulating function of law almost died out. Currently, in the successful society when controlling the process of law-making, it is necessary to pay attention to proportional changes of limiting and stimulating forms. New combinations of incentives and restraints are relevant in the legal regimes. This

is reflected in the Russian legislation. The point of reference for the legal regime "everything which is permitted by law is allowed" is a precondition for vigorous socially beneficial activities in the interest of the law-based state.

In the successful society, a citizen of the social law-governed state acts as a separate entity. The form and degree of freedom is a right that should expand the boundaries of an individual's limits: in manufacturing, economic and other activities. (Konovalov et al., 1997) Declaration of the Rights and Freedoms of Man and Citizen, adopted in 1991, is a basis for cancellation of outdated legal restraints. Article 22 of the Declaration states: "Everyone has the right to entrepreneurial activity that is not prohibited by law." In the context of the mixed economy formation, the legal regimes should be generally stimulating for individuals and economic entities. The right is a means that develops and stimulates actual activity and behaviour. It plays the role of a factor that controls the activity, "because the right limits it so as to provide more opportunities for the expansion of constructive social and legal activity".

The legal incentivizing regime contributes to reaching a social agreement in the successful society in the context of the formation of statehood based on the rule of law. Using a self-governing mechanism, the relation between determinism and nature is demonstrated. (Kerimov, & Oznobishhev, 1994)

Russia now faces the need for radical economic and political reforms. Forms of a statehood based on the rule of law are different. They are dictated by a number of such prerequisites as specific character of socio-economic national development, social and political confrontation, particularities of the political regime, traditions, enforcement and legal practices, and the formed legal culture.

The Constitution of the Russian Federation is based on fundamental principles aimed at humanitarian (the rights and freedoms of man and citizen), regulatory (the legislature is based on the constitution in force), institutionary (the separation of powers) aspects. Article №1 of the Russian Constitution provides that Russia is a democratic federal law-bound State with a republican form of government, at the same time it is a "social state".

The federal law-bound State begins with the value supremacy of man, his rights and freedoms. The rule of law in the Russian Federation is embodied in a number of the RF Constitution provisions: the equal rights of the subjects of the Russian Federation, the interstate citizenship, the federal integrity and unity of the system of bodies of state authority, the division of state power between bodies of authorities of the Federation and its subjects.

The Russian Federation proceeds from socialism to post-socialist forms of the law-bound State, the law-based principles of social life, the organization of state power based on law, the relations of authorities and individuals within the framework of legislature.

Man, his rights and freedoms are the supreme value, and fundamental rights and freedoms belong to everyone by birth, and these are the two components of constitutional law thinking (value-related law and natural law). Inalienable rights of an individual are guaranteed by constitutions and law-making bodies, and legislation of separate nations. They are a part of relationship and legal ties governed by the International law, spelled out in official documents issued by various intergovernmental organizations and international communities (UN, UNESCO, etc.).

The concept of inalienable rights is closely related to the way of thinking in terms of philosophy and law in the ancient and medieval world. Civil rights are those bestowed onto a citizen but not an individual, as he is a member of the "political dialogue of free and equal citizens." There is no substantive difference between rights- freedoms and rights-duties in their notions of individual rights.

The issue of inalienable rights of an individual in the successful society is associated with theoretical and practical matters of the law-based society. The individual's "inalienable" rights are understood as 'natural" rights as formulated in Philosophy of law. Mal'ko (1994) assumes that relations in the modern society have developed in two directions. The first direction is the formation and modernization of political, legal and social institutions, providing a guarantee of inalienable individual rights in the certain social and political systems. The second direction is the transfer of those principles to different types of human communities (children, women, national minorities, civil societies).

3. Results and discussion

International institutions and organizations play a major role in the interaction concerning the matter of rights and the international law. The fundamental documents and international rules, with the concept of inalienable rights recognized, were promulgated under their supervision, and adopted by a majority of the modern nations, such as the Universal Declaration of Human Rights (1948), the International Bill of Human Rights (1966), the Declaration of the Rights of the Child, etc. For the Philosophy of law, functional problems are at the forefront, which are associated with international standards correlated within the respective jurisdictions concerning the inalienable rights of individuals. The main elements of the modern law-relating development are the following issues: the relationship between legal freedoms and legal duties; the measure of social and legal responsibility of individuals in respect to their societies; the means to ensure the stable functioning of the individual inalienable rights; the responsibility of governments, states and communities for the human and individual rights violations. Human rights are not bestowed onto a person by a given legal system, but those any person can claim by virtue of his or her humanity. People are born with human rights: an individual is free, eligible, a subject of law, and the right as a form of freedom is possible providing that the subjects of law are free and independent. If a person is free and a subject of law, then the state can also be a subject of law.

Human rights imply a certain cut of human existence, and a form of granting and exercising human rights and freedoms is a necessary unit in the structure of law.

The Constitution of the Russian Federation contains the provisions that the rights and freedoms of man and citizen shall determine the essence, meaning and implementation of laws, the activities of the legislative and executive authorities, local self-government and shall be ensured by the administration of justice. The Federal Law protects the foundations of the constitutional order, morality, health, and the rights of others by limiting the rights and freedoms of man and citizen, to ensure the security and defence of the State, as provided by the Constitution.

Rights and freedoms of citizens cannot be limited or constrained in case the state of emergency is declared, and the law-making activity shall be based on the following principles: the right to life; the right to privacy; the right to have personal and family secrets; the right to protection of honour, dignity

and reputation; the freedom of thought, conscience and religion or belief; the right to shelter and judicial protection of rights and freedoms.

The Constitution of the Russian Federation states: "Any normative legal acts concerning human rights, freedoms and duties of man and citizen may not be used, if they are not officially published for general knowledge; no laws shall be adopted cancelling or derogating human rights and freedoms. Everyone shall have the right to appeal, according to international treaties of the Russian Federation, to international bodies for the protection of human rights and freedoms, if all the existing internal state means of legal protection have been exhausted."

The Russian Government shall implement measures to ensure the rule of law, human rights and freedoms, protection of property and public order, and crime control. The Commissioner for Human Rights deals with the matters of human rights, with the aim of providing the guarantees of the protection by the state of civil rights and freedoms, their observance and respect; reacts on available information about mass and gross violations of human rights and freedoms. The Commissioner takes appropriate measures as to restore violated rights, improving the whole system of human rights; establishes certain conformity with international standards of jurisdictions; draws attention of state bodies to the problem of the protection of human rights and freedoms by bringing the Russian legislation in line with international requirements.

4. Conclusion

Human rights are a reflection of the fact that the comprehensive perfection of humankind is impossible without human rights granting and exercising. This process of bettering human lives in itself is valuable that possible for implementing by regulating rights. Human rights are different from other kinds of social and regulatory standards. Human rights have a status of standards; they prescribe actions and conditions in order to ensure the protection of human dignity. As social norms of human rights, they can be comprehended in terms of their value. Such a goal as the assertion and increase of the value of a person can be achieved through human rights. The equal satisfaction of everyone's needs is possible under certain conditions. Equality is accepted as a means for satisfying needs that must be satisfied equally, rather than using the equal measure.

Human life and its improvement have a value, providing that the necessary precondition for this is the satisfaction of human needs; and human rights represent a necessary means by using which it is possible to promote and strengthen their value in order to create the nation of safety, humanity, democracy and the rule of law.

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