Impact of Philosophical Anthropology and Axiology on the Current Understanding of the Institution of Human Rights

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Summary
The article aims at studying the institution of human rights in an ever-evolving world in the context of the interdisciplinary approach. The main scientific method was deduction that allowed examining the specific interdisciplinary approach in relation to the institution of human rights on the global scale. To solve the issue set, it is necessary to study legal foundations and features of the interdisciplinary approach to the institution of human rights in the modern world. The article proves there is no theoretical anthropological understanding of the institution of human rights. It has been concluded that the appeal to anthropological jurisprudence requires the identification of the initial theoretical and methodological principles, parameters and axioms of cognition, the integration of a person into the subject field of legal science, linking jurisprudence with the chosen external environment (philosophy, sociology, theology, etc.), predetermining the existence (understanding) of a person, causing qualitative differences and the structure of subject-methodological phenomena. In addition to the identification of such hypotheses, prerequisites and axioms, the basic method (principle) of cognition and its heuristic potential are also being searched (defined). The terminological designation of the formed subject-methodological phenomenon (legal anthropology, anthropology of law, anthropological approach, etc.) reveals its role in the system of interdisciplinary relations of legal science.

Keywords:
human rights, the protection of rights and freedoms, state control, legal anthropology.

1. Introduction

The study is relevant since modern jurisprudence addresses anthropological issues while analyzing branches of law and certain phenomena (human rights, legal understanding, the implementation and effectiveness of law, justice, abuse of law, legal tradition, etc.) and studies customary rights. At the same time, the post-Soviet jurisprudence is mostly concerned with such anthropological issues as the interdisciplinary approach, appeal to philosophical anthropology and understanding of customary law, which is more typical of Russian science. Any study of a person as an object and subject of cognition is accompanied by an appeal to methodological issues, and vice versa. As a result, anthropological knowledge should be viewed as holistic and as having an indeterminate subject-methodological status, which is sometimes stated by scholars.

The anthropological understanding of reality, including legal one, is predetermined by the objective complexity and versatility of a person as an object and subject of cognition. In particular, the subject of anthropological and legal cognition is regarded as the determinism of law by human qualities or as human properties due to law ("legal person", "legal entity", "man as a social being in legal manifestations", "the legal manifestations of people", "the legal forms of human life from ancient times to the present day", etc.).

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The most important pattern of anthropological studies is the simultaneous (parallel) cognition of the subject formed by some hypothesis and an appeal to the object, subject, methods and levels of anthropological knowledge. The issues related to the object lie in selecting the level of coverage and the method of studying objective reality. The issues of the subject refer to determining the role of the formed area, including its name, in the system of cognitive phenomena. The issues of the method aim at understanding the role of the chosen criterion of cognition for the

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comprehension of objective reality. All this predetermines the correlation and interdependence of the original term and the structure of anthropological knowledge (with due regard to the chosen aspects), the parallel deployment of the subject definition in the research field and the formation of the subject area based on the methodological phenomenon [1, 2].

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2. Methods

We used the following scientific methods: system analysis, imperative and deductive methods, as well as a detailed study of the anthropological and legal nature of the institution of human rights. Using these methods, we concluded that anthropology in subject-related terms is divided into philosophical, social, cultural, historical, natural sciences, religious, etc. They are complementary and each of them can be projected onto political and legal reality, giving rise to a complex set of multi-level complementary subject-methodological phenomena under various names (legal anthropology, anthropology of law, anthropological approach, anthropological paradigm, etc.). The analysis of legislation and scientific publications indicates that any state uses technical achievements in management processes. Despite a certain lag in the use of digital information and communication technologies in government activities, states are gradually increasing their technological component. However, it would be wrong to consider the use of technology by states only from the viewpoint of strengthening social control. Some scientific works have already substantiated the insufficient understanding of this issue within the framework of classical liberalism.

3. Results

Any semiotic activity aims at interpreting sign systems that create meaning at the heart of each cultural pattern. The interdependence of law and culture is seen not only in the fact that "law should have moral significance for a culturally heterogeneous population" but it also "should be able to consider those whose claims it currently does not recognize" [3]. In this regard, deconstruction is not recognized as a consequence of the philosophy of Jacques Derrida or as a symbol of postmodernism, but as "an essential part of the semiotic approach to law", which allows discovering various ideals and values, as well as the purposes of their use [4].

While there is a general agreement with the need for the modern semiotics of law to analyze axiological problems, including the phenomena of ideological drift and deconstructive revolution, there is no unity among scholars in the selection of models for such analysis. The above-mentioned study of the synchronic and diachronic functions of legal signs seems to be used in a broader model of interpretation [5].

On the contrary, the values-based acceptance of a legal text is a prerequisite for the recognition of its explicit or implicit normative models by the interpreter. At the 10^{th} level of elementary axiological structures, the interpreter of the legal text discovers such oppositions as good – bad, positive – negative, true – false, life – death and nature – culture. U. Eco wrote, "I wonder whether the extensional world structures can be reduced to such elementary oppositions or not: undoubtedly in certain texts one is dealing with possible textual worlds where the involved properties are exclusively of this type". Various norms, explicitly or implicitly contained in the legal text, are also embedded into these simplest oppositions [6].

At the last level of global structures, intensional and extensional approaches overlap. Relationships at the actant level are seen as true or false, narrative or motivating. At this level, the axiological and normative components of legal texts are finally included in the interpreter's ideas about what is due and further influence legal behavior.

4. Discussion

In fact, most scholars from different countries [7, 8] emphasize the interaction of common understanding and its manifestations in various spheres, as well as the objective presence of some people with their own subject-methodological specifics and the name of complementary levels (directions) of cognition, united by a single methodology (paradigm) in the structure of anthropological and legal knowledge. However, this issue is usually articulated at a particular rather than ultimate level of abstraction in the form of problems related to the status and differentiation (structuring) of various levels of anthropological knowledge, the disclosure of volume and correlation of various terms. In particular, V.A. Bachinin [3] described the creation of philosophical and legal aspects of the anthropology of law within a single socio-legal anthroposphere, fastened with symbolic, normative, values-based and semantic ties into the integral human existence as a result of joint efforts.

Uncertainty is manifested in the interdisciplinarity of complementary concepts due to subject-methodological pluralism; the complexity generated by the processes of knowledge creation (integration and differentiation of the spheres of cognition, an appeal to both external and internal

phenomena for jurisprudence); debatable subject boundaries.

Anthropological jurisprudence reflects a number of complex processes and patterns in the development of scientific knowledge. Thus, P. Singer [9] noted that the anthropology of law was influenced by all the methods of forming scientific knowledge, linking jurisprudence and anthropology, using the methods and provisions of other areas of cognition. B. Lepti [10] believed that legal anthropology arose due to the internal differentiation of social anthropology, on the one hand, and the interdisciplinary interaction of the latter with jurisprudence, primarily with such branches as legal theory, legal history and comparative law, on the other hand. P.V. Tereshkovich [11] considered the anthropology of law as a result of the differentiation of the general theory of law and philosophy, as well as the integration of knowledge and epistemological methods of jurisprudence, ethnology, legal sociology, etc.
Terminological uncertainty refers to the formation of a categorical-conceptual apparatus (the application and interdisciplinary adaptation of the concepts of classical philosophy, philosophical and social anthropology to the subject and goals of knowledge; the anthropological interpretation of legal concepts; the creation of new terms) and the names of subject-methodological phenomena. In this context, the following regularities are manifested: discussions about the names of specific subject-methodological phenomena reflect the levels of their deployment and characterize the existing (obvious or latent) attraction to a certain extra-legal sphere. At the same time, each term is conceptually complete and can be regarded as a "middle-level" theory and its use implies joining a particular school (tradition).

Semioticians of law have been analyzing axiological issues since the origin of this science. Thus, the founder of the Peircean school of semiotics of law, Professor at the University of Pennsylvania (USA), Roberta Kevelson [12] explored the issues of "representing ethics, morality and values in law" in the twelfth chapter of the fundamental work "Law as a system of signs". While noting that the tradition of combining ethics with law originated in the history of Western thought in the work of Aristotle, the scholar highlighted the difficulty of finding ethical concepts and, above all, justice in the legal systems of Romano-Germanic and Anglo-American common law developed from Roman law. Nevertheless, the author concluded that "freedom and responsible choice represent the unification of ethical principles and existential acts" in law. In this chapter, R. Kevelson [12] referred to the semiotic concept and pragmatic philosophy of Ch.S. Peirce and tried to prove, through the analysis of an extremely complex and constantly transforming network of signs functioning in the field of law, that the very selection of legal reasoning was an ethical choice and depended on value attitudes. The author demonstrated that the choice of the deductive approach to the concept of obligation in law by I. Kant [13] was due to well-defined values and led to completely different results than the combination of abductive, deductive and inductive reasoning adopted by Ch.S. Pierce. At the same time, R. Kevelson noted that the traditional deductive method for legal justification was based on values that always differed from the original purposes of their use. However, the strict connection between the method of legal reasoning and one or another system of value orientations of R. Kevelson has not been convincingly proven [14, 15].
The analysis of axiological issues presented by Jack Balkin [16] in his resonant article "The promise of legal semiotics" published in the "Texas Legal Review" (USA) is of considerable importance. Under the influence of J. Balkin's work, the semiotics of law had been developing until the end of the first decade of the 21st century, as evidenced by numerous references in the scientific literature and documents of the International Round Table on the semiotics of law held in Boulogne-sur-Mer (France) in 2008. In general, agreeing with the concepts proposed by J. Balkin, the synchronous and diachronic analysis of legal signs, it is necessary to prevent the absolutization of value relativism.
The phenomena of ideological drift and deconstructive revolution reveal the mechanisms of different, sometimes opposite, use of legal, moral and political ideas and values. It should be noted that a number of other methods used in social sciences and humanities, for example, critical discourse analysis, contribute to this "exposure" [16].

However, the scientific study of such mechanisms and the analysis of sign-discursive manipulations should not level the value attitudes of an individual, social groups or society as a whole. In a postmodern and multicultural society, the danger of value disorientation is very high, and semiotic-legal research should in no way increase it. This danger has acquired particular relevance in the current decade, in which, as A. Wagner and J. Broekman noted, law in a semiotic perspective is considered under the influence of globalization and multiculturalism not so much as "a surprisingly plastic medium of discourse about power" [17] but rather as multiple and highly dynamic legal orders expressed in power discourses and often unpredictable communicative effects.
It is worth mentioning the multi-modal expression of values in law.

The concept of "legal existence" is not typical of the traditional general legal theory, which mainly operates with the concept of "legal behavior". A person and their legal existence are gradually moving from actual reality to a virtual one, which acquires legal features regardless of the legalization of this reality by state (primarily due to the social significance of virtual operations and their consequences). This process is objective, and it is only growing due to the increasing digitalization of the social world. At the present stage of social development, the traditional consideration of law as a means of social control

and social engineering becomes a thing of the past, giving way to the concept of technology as social engineering and the main social regulator. In this regard, one cannot but recall the famous article by M. Heidegger "The question of technology", in which he quite early (1953), even before the widespread dissemination of information technologies, noticed the anti-anthropological orientation of technical development, which has reached its peak in the field of high technologies [18].

When talking about state activities to include technology in public administration strategies, they do not pay attention to the fact that the state uses technical achievements (databases, information resources, etc.) for more effective management in a digitalized world, including for competition in the field of social management, both with entities within the national political system and with other states and other players in the international arena. For example, in the early 2000s coordinating and rule-making bodies of the Republic of Belarus planned to work on systematizing legislation on the basis of a digital platform (currently, the National Legal Internet Portal of the Republic of Belarus). Today they need to correlate new legalized technological tools with traditional institutions of law and digital security within the established legal information systems.

It is important to understand that the development of technology is not determined by state policy, this is a general trend in the development of humankind, the deployment of a new European attitude to the conquest of nature. The development of modern information technologies demonstrates their focus on people, the restriction of human freedom and even the threat of transformation of the human being itself (for example, the concept of transhumanism). Therefore, the state is called upon not only to technologize for the sake of effective management but also to act as an institution for protecting a person from the "power of technology" (for example, the implemented concept of Internet safety), i.e. to be the restraining force that will prevent the world from "turning into hell" (the Russian philosopher V.S. Solovev).

In general, a dialogue between the population and public authorities served to improve the legal status of a person and a citizen and the subsequent legislative consolidation in constitutional (statutory) laws during the pandemic. Rights and freedoms should be considered with due regard to the territorial development of constituent entities of the Federation, national customs and mindset orientations. In the constitutions and charters of constituent entities of the Federation, the legal status is presented by the regional legislator as quite different and extensive. The departure from the federal legislation by expanding the legal norms inherent only in this territory creates the possibility of the exclusive legal status of a person and citizen and allows identifying some problems [19].

The relevance of the constitutions and charters of the constituent entities of the Federation as acts of an open dialogue between public authorities and people demonstrate new aspects of democracy, moral values, the foundations of civil society, and the digitalization of public administration and power. Indeed, this is connected with the legal status of a person and a citizen. There is a need to develop a draft of the constitution (charter) of the constituent entity of the Federation. It is necessary to include legal norms regulating socio-economic, spiritual-cultural and political-legal foundations, as well as goals proclaimed in civil society and gradual development priorities.

5. Conclusion

The appeal to anthropological jurisprudence requires the identification of the initial theoretical and methodological principles, parameters and axioms of cognition, the integration of a person into the subject field of legal science, linking jurisprudence with the chosen external environment (philosophy, sociology, theology, etc.), predetermining the existence (understanding) of a person, causing qualitative differences and the structure of subject-methodological phenomena. In addition to the identification of such hypotheses, prerequisites and axioms, the basic method (principle) of cognition and its heuristic potential are also being searched (defined). The terminological designation of the formed subject-methodological phenomenon (legal anthropology, anthropology of law, anthropological approach, etc.) reveals its role in the system of interdisciplinary relations of legal science.

In fact, each of these axioms (or their combination), chosen in the context of the goals and objectives of direct research, predetermines the vector, objective, object, subject, levels of cognition of objective reality, and also acts as a criterion for structuring anthropological and legal knowledge.

The foregoing allows concluding that the accumulated array of works related to the multifaceted reflection of a person in law and legal aspects in a person appeals to the study of limiting theoretical and methodological problems in this area and understanding the structure of anthropological (anthropological and legal) knowledge. Related to post-non-classical scientific and management paradigms, such limiting requires studying the initial principles of cognition of the chosen sphere, which, in our opinion, are holism and uncertainty.

An appeal to these principles excludes the only true linear option for the development of anthropological knowledge as not corresponding to the post-non-classical paradigm, pointing to the importance of the initial target parameters chosen by scholars that determine the conclusions; reveals the problems of structure and levels in anthropological knowledge, including the identification of strategies for the cognition of objective reality; determines the need for the

development of methodological tools for the correlation of anthropological knowledge obtained with the help of various initial assumptions.

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