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THE PROCESS OF LAW FORMATION: ONTOLOGICAL, AXIOLOGICAL AND EPISTEMOLOGICAL ASPECTS

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Abstract. *The article considers the process of law formation as a two-unit process of spontaneous and planned-rational formation of legal norms system, providing the ordering of public relations under the influence of various factors of social development, receiving refraction in legally significant social interests and the subsequent reflection in the legal ideas. The ontological, axiological and epistemological aspects of this process are emphasized. By means of philosophical-legal methodology of law formation is presented in the form of twofold process of spontaneous and systematic-rational formation of legal norms, providing ordering of public relations.*

Keywords: *law formation, law making, ontology, axiology, epistemology, law genesis.*

Today's jurisprudence has distanced itself from the orthodox view of legal norms as the product only of the government. Such an understanding had for some time ideological grounds as well as factual reasons. But today the situation is changing dramatically. The contribution of other subjects of law formation in each

national normative system is recognized by a significant number of researchers both in Russia and foreign countries[1]. Such a trend will only expand[2].

It should be noted that law formation from a logical point is a more general concept than the concept of law-making, i.e., it can be obtained by generalization by removing a number of features essential to the concept of law-making. According to researchers, law-making as a concept includes two largely opposite phenomena — spontaneous formation of legal norms and law-making itself[3]. Here we can fix the indicated opposition: on the one hand, indeterminacy, on the other — expediency, together leading to a single result. However, the ontological contradiction does not entail a logical contradiction, so that the concept of law formation can be considered quite consistent within itself[4].

Science considers law formation as a two-unit process of spontaneous and planned-rational formation of the system of legal norms, providing the ordering of public relations, which is carried out under the influence of various factors of social development, receiving refraction in legally significant social interests and the subsequent reflection in the legal ideas[5].

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[1] *Goldsmith L., Posner E.* The Limits of International Law. New York: Oxford University Press. 2005; *Shelton D.* International Law and Relative Normativity in International Law, Edited by Malcolm D. Evans. Oxford University Press. 2003; *Williams A. C.* Civil Society Initiatives and "Soft Law" in the Oil & Gas Industry // New York University Journal of International Law & Politics Vol. 36. (2004); *Daneliya G. R.* Osobennosti pravovogo regulirovaniya sotrudnichestva gosudarstv-chlenov ES v oblasti obshchey vneshney politiki i politiki bezopasnosti: avtoref. diss. … k.yu.n. [The specifics of the legal regulation of cooperation of EU member states in the field of common foreign and security policy: author's abstract of dissertation of Candidate of Legal Sciences]. Kazan, 2006; *Zimnenko B. L.* Mezhdunarodnoe pravo i pravovaya sistema Rossii: diss. … d.yu.n. [The International law and the legal system of Russia: Dissertation of Doctor of Legal Sciences] M., 2006; *Lutkova O. V.* Osnovnye kontseptsii istochnikov mezhdunarodnogo prava: diss. … k.yu.n. [The basic concepts of the sources of international law: dissertation of Candidate of Legal Sciences]. M., 2004; *Lysenko D. A.* Problemy pravovogo statusa transnatsionalnykh korporatsiy: mezhdunarodno-pravovye aspekty: avtoref. diss. … k.yu.n. [The problems of the legal status of transnational corporations: international legal aspects: abstract of the dissertation of Candidate of Legal Sciences]. M., 2003.

[2] *Lang P. P.* Pravovaya deyatelnost: aksiologicheskie i mirovozzrencheskie osnovaniya [The legal activity: axiological and attitudinal foundations]. Samara: OOO "Poligraficheskoe obedinenie "Standart", 2021. P. 43.

[3] *Pridvorov N.A., Trofimov V. V.* Pravoobrazovanie i pravoobrazuyushchie faktory v prave [The law formation and law-forming factors in the legislation]. M.: Norma, 2016. 400 p.

[4] *Murashko L. O.* Aksiologicheskoe izmerenie protsessa pravoobrazovaniya: istoriya i sovremennost: diss. … dokt. yurid. nauk [The axiological dimension of the process of law formation: history and modernity: dissertation of Doctor of Legal Sciences]. M., 2015. P. 302 and next.

[5] *Pridvorov N.A., Trofimov V. V.* Pravoobrazovanie i pravoobrazuyushchie faktory v prave [The law formation and law-forming factors in the legislation]. M.: Norma, 2016. P. 14.

Uniting in one category of two opposite descriptive and conceptual constructions is an epistemologically difficult activity, although in this case the expediency of such unification is obvious: it is the need to find common patterns of formation of legal norms, regardless of whether someone controls this process or not, whether he is characterized by a clearly expressed subjectivity or is completely anonymous.

The process of formation of the normative system, which is law, has a number of ontological, axiological and epistemological specifics, equally inherent in both law-making practice and non-state phenomena of legal genesis.

It appears that law is not a purely atomized structure, that is, it cannot be divided into microscopic fragments in the form of deontic (permissive, prohibitive and binding) judgments. To be more precise, it is certainly possible to divide it, but then the very systemic effect would disappear, for which only one can speak about the formation of a new quality (the so-called "emergent nature"), while the system is always something new, separate and standing out against the background of the environment. In this regard, going beyond the law in the narrow sense (that is, in fact, individual legal regulations) is justified approximately in the same way as the introduction of the third dimension into geometry is justified: then much becomes clear from what is valid also in relation to the plane (two dimensions), but cannot be considered and realized if one stays there. Exit to the space with higher dimensionality is a typical methodological method, thanks to which the former knowledge is renewed, clarified, takes on a new life. This is why we need a philosophical characterization of law formation in order to solve exactly theoretical-legal tasks.

Ontology is a chapter of philosophy that investigates objects, the structures of objects, and the functions inherent in objects. Simplifying, we can say that ontology is a scheme of reality, made with the maximum degree of abstraction. In science, it is customary to call ontological schemes, which pretend to complete coverage of reality in all its typical diversity, world pictures[1]. Legal science, according to some scientists, also contributes to a picture of the world, although the latter does not resemble the results of the ontological comprehension of natural sciences — physics, biology, or cosmology. In any case, the multiplicity of pictures of the world is partly due to the basic abstraction that is chosen as the main one, the main one in the unfolding of the scheme of reality. Once this abstraction is changed, the whole picture of the world changes as well. In those disciplines where the ontological boundaries between objects are sufficiently well-defined,

[1] *Vedeneev Yu. A.* Yuridicheskaya kartina mira: mezhdu dolzhnym i sushchim [The legal view of the world: between the proper and the actual] // Lex Russica. 2014. No. 6. Pp. 641–654.

different pictures of the world are difficult to combine with one another, if, of course, there is any need for researchers to do so at all. For example, if we look at the electron as a wave, the microcosm will appear in our theory as one side, and if we look at it as a particle — another side. Hence, the problem of quantum mechanics, and its paradoxical nature: there is no complete understanding of how it is possible to combine these views of the subatomic level of matter. In this sense, the social sciences look much simpler: their pictures of the world overlap, so that, for example, the doctrine of the class structure of society can be combined with the theory of social solidarity, although initially these views are rooted in opposing philosophical beliefs about the prospects for social development and the driving forces of such development. Or, for example, synthetic theories or concepts of law are possible, whose main purpose is to remove the opposition between positivism and naturalism as general philosophical principles for understanding the nature of law and its origins. Synthetic theories of law include the so-called "communicative" or "dialogical" understanding of law.

The unification of different paradigms of understanding the law is also possible because at the base of legal thinking are concepts that are pre-theoretical in their origin. We dare to argue that for legal relations, the central concept of the ontological type is the concept of order, and it is this concept that emerged and existed outside any theory. In other words, order or the intuition of orderliness is equidistant from all competing views of law.

The notion of order should be seen as a semantic center, attracting to itself all ideas about the structures, functions, attributes of legal reality. Therefore, we should focus on the idea of order as the basis for the analysis of law from an ontological point of view.

As you know, the human consciousness is not inherent in principle the idea of complete chaos, none of the people cannot imagine the absolute disorderliness of phenomena and the absence of all interconnections in the surrounding reality. But even relative indeterminism, in which causality appears and disappears, is difficult to imagine, since people are used to seeing a causal relationship between phenomena, but not its absence. Moreover, in an era of far-reaching advances in science and technology, the absence of causality is perceived only as a temporary ignorance of the connections between phenomena at a level deeper than is currently available to us. Finding determinism in a particular subject area seems, for this style of thinking, only a matter of time and a purely technical difficulty.

It is telling to what extent the social sciences are not similar to the natural sciences. In the former, it is assumed that for two independently discovered facts, there is inherently no relationship. This assumption in statistics is called the "null

hypothesis"[1]. Whereas the presence of a relationship and its character (correlation or causality) must be proved (or, similarly, the null hypothesis must be disproved). In the social sciences, the null hypothesis, apparently, cannot be applied or is applied rather rarely. Events occurring in social space can have unanticipated effects on people seemingly significantly distanced from the place and time of a given event. Subjects carrying interactions can introduce distortions into information or perceptions of what is happening, which also affect the outcome of the event. Thus, there are many more unknown yet real interactions in society than there are outside it, so it seems correct to make the opposite assumption with regard to social reality, rather than the similarity of the null hypothesis: the two events in it should be considered related until the opposite is established. Moreover, from our point of view, even the absence of social connection can often be interpreted as something unnatural.

The universal connection of social phenomena emerges even within or, more precisely, thanks to mythological consciousness. Just as the space of myth is organized according to the principle of universal belonging, the whole, as ancient thinkers believe, arises before the parts, and it is the parts that exist thanks to the whole, and not vice versa. Therefore, it is not at all surprising that Platonism places the properly organized state, the state corresponding to its notion, as Hegel, for example, would put it. The Platonic way of thinking is sufficiently mythologized, and a purely logical beginning plays a clearly subordinate role in Platonism. The invariable presence of myth in the structure of ancient thought can partly explain the fact that the notions of individuality were formed first as applied to the physical level of being, that is, to the material world — we are talking about the teachings of the school of atomists. At the same time, in the law of that time, the principle of individualization of responsibility and punishment was also absent, although it was the guilty person who was punished, and not his whole family or clan, for example, as was done in pre-state societies, especially in nomadic tribes.

We must keep in mind, however, that the universality of social reality does not mean its unchanging existence. Moreover, ancient philosophers preferred to argue that states tended to degenerate over time, which points to the "golden age" mythology characteristic of the minds of the time. The degeneration of the state is understood as the loss by the powers that be of the common good as the only yardstick and aim of the action. It is possible to save the polis from degeneration and tyranny only by establishing a better order. Thus is born the most important political utopia of all time and peoples — the dream of an ideal state.

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[1] *Fisher R.* Statisticheskie metody dlya issledovateley [The statistical methods for researchers]. M.: Gosstatizdat, 1958. 267 p.

But from the point of view of the ontological analysis of political-legal reality another thing is interesting: it turns out that the social order, for whatever reason, cannot be established for a long time without changing at the same time. Efforts, human energy, both volitional and intellectual, are required to ensure that this order maintains its basic parameters. And even if we are not talking about the ideal state, the most ordinary political relations also tend, over time, to turn into their opposite.

The instability of the social order may be due to many reasons, but the main one is the very fact that people possess an individual will, which in its decisions acts as an autonomous entity beyond the control of reason. This circumstance renders either useless or meaningless versions of the ideal state, since there is no guarantee that all citizens will follow exactly this ideal.

However, it should be noted that at all times, society retains ideas about the desired political order, as well as the understanding that the actual order differs from the desired one. Even if myth has no power today, ideology — a system of ideas about the world that fixes something that is absent in fact and that should be, remains significant. Ideology is constructed by combining a multitude of value judgments into a system. Usually the emphasis is placed on the subject of evaluation, not on the evaluating subject, and one prefers not to talk about the grounds of evaluation.

Both the actual and the ideological are fixed by society in social norms. From our point of view, when we talk about the ontological aspect of law, we mean, first, that the legal system enshrines a certain image of society, which sanctions this legal order, giving it significance and universality. It is clear that this fixation does not allow us to unambiguously determine all the basic parameters of society, relying only on what is enshrined in the sources of law, but it is also obvious that at the heart of any system of norms lies, first and foremost, the idea of a social community about itself, whether it is a state, a union of states or a region permeated by political-integrative ties (such as modern Europe[1]).

It should be noted that the actual content of legal judgments is often minimal. It is only necessary to ensure the coherence of the legal system with other systems that make up the fabric of social interaction. For example, factuality is common in construction norms and rules, sanitary rules, technical regulations, it is found in environmental, urban planning and housing legislation. Judgments about facts per se, of course, cannot express any social values, although by changing the

[1] *Lang P.P.* Pravovye tsennosti Evropeyskogo Soyuza: sovremennoe sostoyanie i transformatsiya [The legal values of the European Union: current state and transformation] // Aktualnye problemy pravovedeniya [Actual problems of jurisprudence]. 2021. No. 1(69). Pp. 4–9.

set of these facts we can always judge any value-motivated trend, including the expansion or narrowing of the areas of legal regulation.

Therefore, values are inherently localized in the upper level of legal consciousness, i.e., legal ideology. Obviously, at the lower level, i.e., legal psychology, there is also a value aspect, but it is not decisive in the ontological, axiological or epistemological study of law formation. Personal motives that are not correlated with general values either do not influence the legal behavior of the individual at all, or (if they do, and in a negative direction) are subject to identification in extreme cases, such as criminal proceedings.

However, one should not equate ideological judgments about law with legal ontology. It is quite clear that the set of ideas about the desired state of affairs is not necessarily limited to the schematization of existing objects and the relations between them. Moreover, in every ideology, the judgments and phrases that are the least defined in semantic terms but the most emotionally critical (or, respectively, apologetic) are the most attractive, which obviously correlates with the target audience as the authors of specific "ideological" texts envision it.

However, there is one component of legal ideology that has an ontological character that cannot be eliminated. It is the question of existence, or rather, its solution, offered by a given normative system. This component is so important that it is possible to distinguish one legal order from another, both synchronously and diachronously, by judgments about existence. I would like to explain this statement.

If we consider ontology to be a kind of scheme of reality, as mentioned earlier, then this scheme usually always determines which entities are recognized as valid, that, exists, and which are invalid or non-existent. In the latter case, they are neither named nor specified. The first primitive ontology was the "theory" of the Greek philosopher of the fifth century B.C. Parmenides, that being is, and non-being is not. Parmenides not only introduced a new object (being), the real correspondence of which he could not find without reference to logical reason, he also justified why non-existence does not exist[1]. Subsequently, the field of schematization, to which thinkers inevitably resorted, was constantly expanding, so that the philosophical sciences in the twentieth century already refrain from the idea of showing a picture of all reality in a single scheme. Of course, some tendencies in this direction remain: certain types and forms of existence are problematized, grandiose classifications of objects are created, but there are no

[1] *Romanenko R.A.* Problema sootnosheniya yazykovoy i ontologicheskoy kartin mira v filosofii Parmenida [The problem of the correlation between the linguistic and ontological view of the world in the philosophy of Parmenides] // Nauchnye issledovaniya i razrabotki molodykh uchenykh [Research and innovation by young scientists]. 2015. No. 3. Pp. 134–137.

authors who would claim to portray a picture of the world. In all appearances, such a task cannot be accomplished today without so many simplifications and conventions that they will eventually reduce the value of such a solution to a minimum.

Ontological statements about social phenomena are primarily judgments about existence, rather than judgments about specific properties. The latter, it should be noted, are much easier to check for truth, while existential judgments are much more difficult to check for truth, since the null hypothesis does not apply in the social sciences, so it is often necessary to prove the absence of ontological status rather than its presence.

The language of law is unified, does not include ontological terminology in its entirety, and is adapted to the tasks of normative regulation, rather than a descriptive function, and so on. However, at the same time, no one doubts that law models social reality, laying into it not an arbitrary but a desirable structure, from the point of view of certain political forces. Thus, the first level of ontology at which the presence of values can be detected in law is the judgment of who is considered to exist for a given normative system.

In characterizing legal genesis, we must proceed from the fact that in social reality it is impossible to completely reduce subjectivity, the subjective beginning. In the terms of classical philosophy, such as Kant's, we are talking about the autonomy of the will, which cannot be limited completely, but always only to a certain extent. In addition, it is precisely for this reason that the endowment of a group of actors with legal personality is the only form of public recognition that matters for the legal system, for the legal order as such. In other words, *a social ontology, relevant for the purposes of legal regulation, can be reconstructed by analyzing the legislation as to which communities are granted which rights and duties within the framework of their legal status*[1].

Further reconstruction of the ontological component in law formation should, in our opinion, include the concept of limit. As Yu. A. Vedeneev correctly writes, "in various historical practices of building a legal or normative-duty order of relations both at the institutional and mental levels of their expression and development, social interests, political preferences, and cultural values are simultaneously present and determine each other. At their intersection, depending on the scale of influence, dynamics, duration, and continuity of social iterations,

[1] See: *Lang P. P.* Pravovaya deyatelnost: aksiologicheskie i mirovozzrencheskie osnovaniya [The legal activity: axiological and attitudinal foundations]. Samara: OOO "Poligraficheskoe obedinenie "Standart", 2021. 372 p.

the normative boundaries of social communication arise and self-determine"[1]. That is to say, a legal prescription is a way of introducing a kind of delimitation within society. It is the presence of boundaries that makes society orderly, at least we identify a certain system as social, separating it from other systems, that is, again, by appealing to the boundaries drawn by the norms of law, morality, religion, etiquette.

The formation of a new legal model means a shift in the boundaries of legal regulation, and there can be just two directions: either the law captures and absorbs new fragments of social reality, or certain relations regulated by law move into the sphere of "shadow", that is, informal regulation. Both of these processes can be observed in different countries in different historical periods, and often both tendencies are not favorable for the participants of social communication.

In the first case, there may be a situation called in foreign studies the juridification of society, that is, an explosive and uncontrollable spread of law into new spheres of relations[2]. In the second case, we should talk about a decline in the demand for law, so that its value as a regulator begins to decline. The absolute limit of this second trend is the so-called anomie — the loss by society of its normative basis (introduced by the French sociologist E. Durkheim).

Excessive legal regulation can be represented in two ways:

a) as a replacement by legal norms of other social norms, and

b) as giving technical norms the status of legal norms.

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[1] *Vedeneev Yu. A.* Grammatika pravoporyadka [The Grammar of Law Enforcement]. M.: RG-Press, 2018. P. 85.

[2] A few domestic researchers have written about juridification, among them: *Belyaev M. A.* Postsovetskoe yuridicheskoe myshlenie i ego subekt [Post-Soviet legal mentality and its subject] // Problemy postsovetskoy teorii i filosofii prava: sb. st. [Problems of Post-Soviet theory and philosophy of law: collected essays.] M.: Yurlitinform, 2016. Pp. 4–29; *Belyaev M. A.* Sverkhregulirovanie: trudnosti problematizatsii [Over-regulation: the difficulties of problematization] // Pravovoe regulirovanie: problemy effektivnosti, legitimnosti, spravedlivosti: sbornik trudov mezhdunarodnoy nauchnoy konferentsii (Voronezh, 02–04 iyunya 2016 g.) [Legal Regulation: problems of efficiency, legitimacy, justice: collection of essays of the international scientific conference (Voronezh, June 02–04, 2016)] / [redkoll.: V. V. Denisenko (otv. red.), M. A. Belyaev]. Voronezh: NAUKA-YuNIPRESS, 2016. Pp. 160–176; *Denisenko V. V.* Pravovoe obshchenie v demokraticheskom grazhdanskom obshchestve [The legal communication in a democratic civil society] // Vestnik Voronezhskogo gos. un-ta. Seriya Pravo [Herald of Voronezh State University. Law Series]. 2018. No. 1. Pp. 29–36; *Denisenko V. V.* Problema yuridifikatsii s pozitsii kommunikativnoy teorii prava [The problem of jurification from the perspective of the communicative theory of law] // Sovremennoe otechestvennoe pravoponimanie: sostoyanie i perspektivy razvitiya: sbornik materialov Mezhvuzovskoy nauchnoy konferentsii [Modern native understanding of law: state and prospects of development: collection of materials of the Interuniversity scientific conference] / FGBOUVO "RGUP", Tsentralnyy filial; otv. za vyp. R. R. Palekha, V. I. Filatov. Voronezh: OOO "Izdatelstvo RITM", 2016. Pp. 42–49.

Thus, legal formation either introduces new functional connections between pre-existing objects into the legal space or introduces new elements, which can be active or passive. Shifting the boundaries of the legal system affects to a greater extent its passive elements (the blessings over which legal relations arise), and through judgments of existence, new active elements are brought into discourse and activity.

In the epistemological respect, law-making can be represented in several forms or ways. This depends on the presence of one or another ontological interpretation of this process, as discussed above, since ontology and epistemology are in themselves inseparable ("the order and connection of ideas and things are one and the same", as B. Spinoza wrote)[1].

Value is a relation in which at least three structural elements can be distinguished — the subject of evaluation, the basis of evaluation and the subject of evaluation. Legal progress as a result of intensive law formation, among other things, means that new bases of value judgments arise, because soon each norm can be used as such a basis. Note that this regularity does not mean that the level of certainty of law increases in society, since the bases of value judgments may not be ordered, since law is an extremely complex system and not all of its parts develop evenly and harmoniously.

Other indicators of legal genesis from the point of view of epistemology are the opportunities opened before the law-enforcer to directly use the principles of law to solve specific judicial and other controversial cases. This is explained by the fact that the developed normative system inevitably begins to describe itself (this is noted, for example, by N. Luhmann)[2]. This does not mean that it closes in on itself and becomes hermetic, it is rather a consequence of the growth of certainty and mutual consistency of parts within a common whole. Developed law also means developed legal consciousness, so that judges better understand the nature of legal values and formulate them in general terms; this is enshrined in judicial precedents (in the common law family) or in the legal positions of higher courts, de facto binding on lower courts (continental law family). The ability to carry out a full legal qualification in the light of legal principles and not to descend into pure (arbitrary) discretion in decision-making is a rather difficult skill, so that law enforcement in the actual progress of law becomes a more intellectual process.

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[1] See: *Spinoza B.* Etika [The ethics] / per. s lat. V. I. Modestova. Mn: Kharvest, M.: AST, 2001. P. 36.

[2] *Luhmann N.* Selbstreflexion des Rechtssystems: Rechtstheorie in gesellschaftstheoretischer Perspektive [Self-reflection of the legal system: legal theory in a social theoretical perspective] // ders., Ausdifferenzierung des Rechts, Beiträge zur Rechtssoziologie und Rechtstheorie. Frankfurt [The differentiation of law, a contribution to legal sociology and legal theory. Frankfurt.], 1999. Pp. 419–450.

This, by the way, indirectly argues in favor of the impossibility of replacing this activity with the efforts of computers, even if technically efficient[1].

The more subtle abstraction inherent in the thinking of those professionals who work with highly developed normative systems leads to a division of value judgments (evaluations) into justified and unjustified. If it is true that value — like truth — is not a property, i.e., cannot be found in objects, but is a relation, then it is necessary to decide every time under what conditions the justifying relation takes place (i.e., justification as a mental communicative action took place), and under what not. However, it is not possible to find this out before the communicative event itself or after it; more precisely, this kind of "cognitive" effort will never lead to a universally recognized result. Consequently, the justification of the value on which this or that outcome of a communicative event, including a political one, is possible only inside or in the course of the said event. This in turn means that the exchange of messages within communication is something more (and more valuable) than the exchange of data, "clear" information. It is a procedural disclosure of intersubjective properties. The positive sense of such processuality is that it reproduces anew and on another level those subjective capacities that are inseparable from the ability to perform rational actions. Thus, in particular, from the desire to maintain dialogue grows the ability to reflect: from the desire for a stable order of relations is born the ability to discuss and evaluate divergent preferences and the like.

Below, we summarize the presented reasoning.

Ontologically, law formation should be understood as the deployment of a number of possibilities, implicitly contained in the legal picture of the world. Law formation, unlike lawmaking, does not have to be discrete and usually does not cause the rupture of the single legal space. In the case of law-making, we can say with absolute precision whether the process of creation of a legal prescription or not, because its end will be the appearance of the corresponding form (source) of law. In the case of law formation, formalization is important, but not crucial, because not all functional interrelations within the framework of law formation are realized. Therefore, we can only talk about the completion of law formation in a sufficiently distant retrospective, i.e., by studying the history of local institutionalization of social relations.

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[1] *Rybakov O. Yu.* Chelovek, pravo, kultura, tekhnologii: novaya paradigma vzaimodeystviya? [The human, law, culture, and technology: a new paradigm of interaction?] // Osnovnye tendentsii razvitiya sovremennogo prava: problemy teorii i praktiki: materialy VI Natsionalnoy nauchno-prakticheskoy konferentsii, Kazan, 25 fevralya 2022 goda. Kazan: Universitet upravleniya "TISBI" [The main trends in the development of modern law: problems of theory and practice: materials of the VI National Scientific and Practical Conference, Kazan, February 25, 2022. Kazan: "TISBI" University of Management], 2022. Pp. 194–201.

During the actualization of the legal picture of the world, the values inherent in a given society also become explicit. Their identification automatically implies their ranking, so by studying legal genesis it is possible to understand which values in a particular historical period are of priority for a given society, and which values are secondary. The fact that between different values there will necessarily be a relationship of greater or lesser relevance is due to the prehistory of this or that legal institution, social and cultural heterogeneity of the population, the public authorities' own goals, the complex foreign policy situation, sometimes difficult and conflicting interaction between the authorities and civil society institutions, the interaction of politics and economics and other objective factors.

From an epistemological point of view, law formation is nothing more than a self-description of society in the language of law. It follows that, first, in the course of law formation, any legal activity acquires more grounds or justifying arguments for implementation, or, in other words, legal argumentation becomes more saturated with normative arguments. Secondly, the basic abstractions of legal activity — the principles of law — through law formation acquire the status of directly operative, because their regulatory content becomes more definite and open to interpretation. In this capacity, they become similar to innate human rights and freedoms. On them becomes possible to base this or that law-enforcement decision, including in cases where specific prescriptions contained in subordinate normative legal acts determine an alternative decision.

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