

**II International Scientific Conference GCPMED 2019  
"Global Challenges and Prospects of the Modern Economic Development"****LEGAL AXIOLOGY IN THE INFORMATION SOCIETY**

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***Abstract***

The article discusses the value of modern public relations legal regulation in context of informatization. The influence of axiological constructions on the normative component of the legal regulation of social institutions, including the digitalization of economic relations, is analyzed. It discusses the importance of legal values as core elements of legal regulation as law is an empty vessel without such values. This article also draws attention to the importance of legal axiological knowledge in judicial proceedings, exhibits the use of legal axiology theory in court rulings and displays the significance of such use. It also highlights certain implications of legal axiology disregard in all types of legal matters including lawmaking and law enforcement. The author marks out the meaning of legal axiology in digital era and reflects on modern issues of value theory use depicting evolution of axiology through time and explaining the basics of its core theoretical thesis. The study examines a quite urgent issue as it considers the value content of the present legal regulation in close context with the digitalization of social reality. In this paper the author analyzes the influence of axiological constructions on the legal regulation of social institutions, examines the coherence of the economy digitalization and legal regulation status.

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**Keywords:** Legal axiology, value, justice, equality, freedom, information society.

## 1. Introduction

Legal scientists are traditionally faced with theoretical and practical issues of modern legal relations. Development trends of domestic legal regulation (including the proclamation of the Russian Federation as a legal, social, secular state) indicate the urgent need to study legal axiology. In the context of widespread improvement of information technology, the relevance of this topic highly increases.

Despite the fact that as an independent philosophical science, axiology (the doctrine of values and their nature) was formed only towards the end of the 19th century (the genesis and formation of axiology is observed in the works of European philosophers (it was most influenced by I. Kant and further theorized by his followers) for one and a half centuries (since 1860), axiological views have been characteristic of both philosophical and legal mindsets since ancient times.

Obviously the concept of value was further studied not only by Kant's followers, for example in the Georges Gurvitch's legal philosophy, Gurvitch realizes the delimitation of the classical theory of values (area of a priori and empirical area) and presents law as the scope of interaction of area of a priori and empirical area (Zagirnyak, 2016).

Also, Russian law scientists Baranov and Ovchinnikov, (2016) researched and analyzed philosophical and legal aspects of the legal hermeneutics and explained law through the spiritual sense of the right in the context of the hermeneutic and communicative paradigm. Legal science also discusses the features of legal and philosophical concepts of Eurasianism reviewing theoretical bases of modern European philosophy through phenomenology, axiology, psychology and synthesizing Eurasian legal philosophical ideology (Ocipov, Sokolov, & Strebkov, 2015). Thus the meaning and importance of axiological studies in law is incontestable.

## 2. Problem Statement

The philosophical doctrine of values is effectively applied in legal doctrine regarding legal consciousness and legal culture, lawmaking and law enforcement. Studies have also shown that axiological constructions are present in various types of legal understanding, federal and regional legislation. It seems that legal consciousness should be recognized as the most obvious manifestation of the value character of social consciousness and axiological rationality. The value nature of legal awareness not only reveals the role of the group subject of legal understanding and legal practice, but also expresses the humanitarian nature of law through the role of the individual as a source and creator of law. The question of legal values is the question of the subjective foundations of law. The axiology of law illustrates the formation of law not only in the form of a norm binding subjects of legal relations, but also as a postulate valued by the field of social reality.

## 3. Research Questions

The study examines a rather relevant topic as it considers the value content of the modern social relations legal regulation in the context of informatization. In this paper, there is an analysis of the influence of axiological constructions on the normative component of social institutions legal regulation including the

digitalization of the economy and entrepreneurial activity. Also this study examines transformation of value ideas in various historical periods and at the present stage of development of society.

#### **4. Purpose of the Study**

The purpose of the study is to reveal the importance of axiological constructions in legal regulation of modern public relations in context of digitalization. The study also aims to establish a human rights vector of law enforcement practice in Russia. Also an analysis of changes in value priorities in legal regulation in various historical periods is presented.

#### **5. Research Methods**

In this study empirical and universal methods of scientific knowledge were used. Methods of systematization, description, and comparison were widely used in analyzing legal axiology in the conditions of the information society. Also such universal methods of scientific knowledge as deduction, induction, abstraction and idealization were applied. The axiological method made it possible to identify the value priorities of the public relations legal regulation in Russia.

#### **6. Findings**

The historical development of society, including its legal component, clearly illustrates the gradual and regular transformation of the value emphasis of law and law enforcement practice. Such changes in axiological content of legal regulation occurred under the influence of political, social, economic, religious, etc. factors. So, for example in the slave-owning period human trafficking, which is legally unacceptable nowadays, was quite natural and was accepted as fair. As for the middle ages, the religious context with its corresponding value content was of key importance for legal regulation; at present, theological notions are outside normative layer and do not entail legal consequences.

In the post-industrial era, the value content of law has reached its “renaissance”. In other words, the law in its modern interpretation is filled with the values of humanism, justice, equality, good faith, etc. A vivid example of the above is the provisions of Article 2 of the Constitution of the Russian Federation: “A person, his rights and freedoms are the highest value. The recognition, observance and protection of human and civil rights and freedoms is the duty of the state. ”

One cannot but rejoice at the fact that the aforementioned postulate is not only declarative in nature, but also has great practical significance. In particular, the indicated constitutional provision sets the axiological impulse of domestic legal regulation, is the quintessence of all legal matter, which is clearly demonstrated by law enforcement practice (including human rights practice).

An example is the law enforcement practice of the Supreme Court of the Russian Federation.

In Supreme Court of the Russian Federation ruling from 05.05.2018 No. 305-ES17-16841 (12), the Supreme Court judicial board for economic disputes, considered the possibility of excluding the funds held in a notary's deposit account of a debtor-bank from the bankrupt's estate as part of an insolvency (bankruptcy) case) of a credit organization, in the ruling the board emphasized the social orientation of notarial actions and ascertained the priority of creditors whose funds were in a notary's deposit account

(Supreme Court of the Russian Federation, 2018a). In other words, the court has identified priorities in the existing hierarchy of social values.

In Supreme Court of the Russian Federation ruling from 05.07.2018 No. 306-ES15-3282, the Supreme Court judicial board for economic disputes, repealing the cassation of judicial acts of lower instances sent the dispute in the bankruptcy case for retrial and pointed out the inadmissibility of violations of the constitutional principle of equal protection of the law and equality before the court (Supreme Court of the Russian Federation, 2018b).

Similar examples of the use of axiological constructions by the courts in resolving economic disputes can be cited endlessly. Moreover, judicial law enforcement practice, through the prism of axiology, is based on such a fundamental value for judicial activity as justice.

The Constitutional Court of the Russian Federation in its Decree from July 2, 2013 No. 16-P “On the case of the verification of the constitutionality of the provisions of the first part of Article 237 of the Criminal Procedure Code of the Russian Federation in connection with a complaint by a citizen of the Republic of Uzbekistan B.T. Gadaev and at the request of the Kurgan Regional Court” pointed out that justice can be recognized as such only if it meets the requirements of justice, ensuring effective restoration of rights. In this connection, when establishing the procedure for administering justice, the federal legislator is obliged to provide a procedure that would guarantee judicial, and therefore legal, justified and fair court decisions. The state is obliged to ensure the exercise of the right to a fair, competent and effective judicial defense (Decree of the Constitutional Court of the Russian Federation, 2013).

Many other countries demonstrate the importance of applying legal value systems (axiology) in law enforcement practice, for example Greek Supreme Administrative Court ruled widely on environmental legal regulations drawing its conclusions from the basic values of law and humanity and shaping them in norms (Kapelouzos, 2018) and in Poland latin legal maxims are used in the judgments of the Constitutional Tribunal (Szczygielski, 2017).

Despite the above there is an opinion of authoritative and respected authors in the legal literature that it is necessary to exclude all “non-legal” elements and phenomena from the normative acts, including justice, freedom, equality, good faith, etc.

In 2018 the scientific community was presented with a high-tech monographic study of Professor Ershov (2018) titled: “Legal and individual regulation of public relations”. This work is devoted to the interpretation of the regulation of public relations through the prism of integrative legal understanding. One of the main ideas of this work is devoted to the need for the widespread exclusion from the law of the so-called “non-legal” regulators. Justifying the stated position, the author cites the thesis that the court, considering any dispute, is simply not able to make a “fair” decision on the merits of the case, since the judicial act, regardless of the content, will be unfair either to the plaintiff or to the defendant, according to the reason for the opposition of the interests of the latter. In other words, the final decision on the case cannot be perceived as fair at the same time by all parties to the disputed legal relationship.

The given position does not seem fully reasoned and categorical. The author identifies justice with a certain “contentment”, which is not entirely true. Justice is a multifaceted and multidimensional phenomenon that includes social, moral, ethical, political, legal, philosophical, etc. aspects (Höffe, 2007). It seems that following the path proposed by the supporters of integrative legal understanding regarding

the “expropriation” of justice and other similar phenomena out of legal life determines the manifestation of legal nihilism in public legal relations. In other words such conditions intensify the denial of law as a measure of freedom and justice.

The vector of cutting off the law from the so-called "wrong" set by professor Ershov (2018) leads to oblivion of the pure essence of law, its foundation, its inner core. Without knowledge of the essence of law, it is impossible to determine the system of legal values, the hierarchy of the latter. Axiological hunger in legal regulation will undoubtedly negatively affect the rights and interests of all subjects of legal relations. If law is not filled with essence and value it becomes a lifeless vessel, a set of rules characterized by lack of meaning. It leads to rules for the sake of rules and not rules for the sake of equality, justice and freedom.

The whole history of mankind suggests that it is justice that law owes its birth and subsequent evolution to. The existing rule of law at different stages of historical development corresponded to the prevailing public understanding of justice in a given period of time.

It is very important to realize that when justice values wandered into the margins of legal existence, various totalitarian (authoritarian, fascist) legal orders were formed through law and normative establishment. The abandonment of key principles that inspire law and reflect in state constitutions (such as «no taxation without representation» to «fraternité»), the attack on the core values of law brought on it by willful ignorance of such values is always antithetical to the essence of law itself (Pegoraro, 2019).

It is the categories of freedom, justice, equality that fill the essence of law, determine its meaning. Through these categories, law itself can be considered a value. It is especially important to realize this nowadays when humanity is in the digital era and faces rush development of digital economy.

Each rule of law, rule of conduct, legal procedure carries its positive value charge aimed at achieving a certain positive result, the so-called benefit (so that the contractual obligation is fulfilled properly and on time; that the guilty criminal incurs a well-deserved and appropriate punishment, and the innocent escaped unjustified criminal prosecution; so that the employee would receive worthy remuneration, etc.). The achievement of the indicated results in legal regulation testifies to the establishment and triumph of such axiological categories as freedom, justice and equality. The axiology of law widely affects criminal law principles (Zaibert, 2016) as it sets humanitarian boundaries and guarantees the fairness of law (Peno, 2019), but it also affects all other legal areas, it might not be as clear from the first glance, but axiology fulfills the legal system, shapes its core.

In other words, the aforementioned axiological principles achieve their practical effect by slipping in a normative shell. Underestimating and ignoring these value categories undoubtedly upsets the balance of interests of legal relations participants. Such “mechanical” legal realization in the absence of normatively established value principles inevitably impairs legal regulation. This is especially true in public relations since the interests of the state apparatus will prevail over the interests of other participants in legal relations.

## **7. Conclusion**

Exclusion of justice, equality, freedom, etc. categories of legal matter, will give rise to "legal" arbitrariness, which will reflect the letter of the law. In this regard, it is appropriate to cite the position of

Torgashev (2017) that the law cannot exist and develop outside the totality of the value manifestations of public life. Legal values establish guidelines that determine not only external forms, but also the meaning of human behavior. According to the author, legal values have the ability to guide the ideals that people strive for. Legal norms, in turn, standardize the value behavior of an individual, defining the boundaries within which a person can freely act, and violation of norms (and, therefore, of socially recognized values) entails sanctions by the state. Legal values serve to create, reproduce and strengthen public order and serve to harmonize the interests of various social groups of people. The value of the law itself is determined by the measure of the freedoms and justice it contains (Torgashev, 2017). So, legal matter in the axiological sense is a detailed form of legal values stipulating legal obligation, different from other forms of regulators and value guidelines. Based on the foregoing, we can safely state that axiological studies of law enforcement practice are quite promising and have significant human rights potential.

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